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Today by  
NOON

## 2003 BILL

ONLY  
change is  
on page 5

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has  
been  
PUN

1 AN ACT *to repeal* 16.009 (1) (h), 250.01 (6), 253.12 (1) (d), 655.001 (10m) and  
2 948.70 (1) (a); *to renumber* 146.31 (1), 146.815 (1), 185.983 (1) and 804.10 (1);  
3 *to renumber and amend* 148.01, 253.01, 446.02 (7) (b) and 975.001; *to*  
4 *consolidate, renumber and amend* 948.70 (1) (intro.) and (b); *to amend*  
5 15.165 (5) (a) 7., 15.197 (25) (a) 1., 15.405 (7m), 15.407 (1m), 15.915 (2) (b),  
6 20.927 (1m), 29.193 (3) (a), 30.67 (6) (b), 36.25 (11) (b), 36.25 (13g) (b) 2., 39.16  
7 (2) (d), 46.18 (10), 46.19 (4), 46.21 (2) (m), 46.21 (4m) (a), 46.245, 46.297 (2) (a),  
8 46.298, 46.56 (3) (b) 3., 46.87 (5) (a) 1., 49.26 (1) (g) 11., 49.43 (9), 50.09 (1) (a)  
9 (intro.), 50.36 (3g) (c), 50.90 (3), 55.043 (1) (b) (intro.), 59.53 (13) (a), 59.64 (1)  
10 (a), 66.0601 (1) (b), 70.11 (25), 94.70 (3) (b), 97.18 (5), 97.48 (2), 100.43 (3) (c),  
11 102.565 (2), 106.50 (2r) (bm) 2., 115.53 (4) (a), 118.135 (3), 118.29 (1) (e), 118.291  
12 (1) (b), 146.0255 (2), 146.15, 146.17, 146.58 (1), 146.82 (2) (a) 5., 146.89 (1),  
13 146.89 (2) (b), 150.85 (4) (c) 2., 155.05 (2), 157.05, 157.06 (1) (h), 165.765 (2) (a),  
14 180.1903 (4), 231.01 (7) (a) 2., 233.04 (3b) (a) 2., 252.14 (1) (ar) 4., 252.15 (1)

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(am), 252.23 (1) (a), 302.10, 302.113 (9g) (c), 302.37 (2), 302.383 (1) (b), 302.40, 343.63 (4), 347.485 (2) (b), 350.155 (2), 440.08 (2) (a) 58., 441.001 (3) (a), 441.001 (4) (b), 445.14, 446.01 (2) (b), 446.02 (1) (b), 446.02 (2) (b), 446.02 (4), 446.02 (9) (a), 446.03 (intro.), 446.05 (1), 446.05 (2), 447.03 (3) (h), 449.01 (2), 449.02 (2), 450.01 (22), 454.02 (1), 459.035, 560.33 (1) (e), 609.22 (4m) (a), 632.76 (2) (b), 647.01 (6), 700.16 (4) (d), 765.03 (1), 804.10 (3) (a), 880.33 (1), 880.33 (4m) (b) 1., 891.09 (2), 891.40 (1), 891.40 (2), 895.48 (1), 895.48 (4) (b) 2., 938.48 (6), 939.615 (6) (e), 967.02 (2), 968.255 (3), 971.14 (2) (g), 971.14 (5) (am), 971.17 (3) (c) and 990.01 (28); and **to create** 46.27 (1) (bg), 48.02 (14k), 50.01 (4p), 50.49 (1) (d), 51.01 (13m), 69.01 (17m), 77.51 (10m), 95.21 (1) (dm), 101.01 (10m), 146.31 (1g), 146.55 (1) (fm), 146.815 (1g), 148.01 (2), 149.10 (7m), 154.01 (6), 155.01 (9m), 185.983 (1g), 252.01 (5), 253.01 (2), 254.01 (3), 255.01 (2m), 301.45 (1d) (q), 343.045, 346.01 (3), 441.001 (2q), 444.01, 446.01 (1d), 446.01 (1k), 446.01 (1L), 446.01 (1m), 446.01 (1q), 446.01 (3), 446.02 (6m), 446.02 (7) (b) 2., 446.02 (7s), 446.025, 446.03 (8), 446.035, 446.04 (6), (7), (8), (9), (10) and (11), 446.05 (3), 449.01 (5), 450.01 (15m), 454.01 (14m), 600.03 (34m), 767.001 (5m), 804.10 (1g), 938.02 (14g), 940.001, 941.315 (1) (c), 948.01 (3o), 961.01 (17m), 975.001 (2), 979.001, 990.01 (25v) and 990.01 (40m) of the statutes; **relating to:** the definition of the practice of chiropractic; chiropractic evaluations, treatments, and referrals to physicians; unprofessional conduct by chiropractors; delegations by chiropractors to physician assistants and other employees; continuing education for chiropractors; nutritional guidance

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- 1 provided by chiropractors to patients; statutory references to physicians and  
2 chiropractics; and granting rule-making authority.
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***Analysis by the Legislative Reference Bureau***

This bill makes changes to the regulation of chiropractors regarding all of the following: 1) the definition of the “practice of chiropractic”; 2) patient evaluations, treatments, and referrals; 3) unprofessional conduct by chiropractors; 4) delegations by chiropractors; 5) continuing education requirements; 6) nutritional guidance provided by chiropractors; and 7) statutory references to physicians and chiropractors. These changes are described below.

***Definition of the “practice of chiropractic”***

Under current law, the “practice of chiropractic” is defined, in part, as the employment or application of chiropractic adjustments and the principles or techniques of chiropractic science in the diagnosis, treatment, or prevention of conditions of human health or disease.

Under this bill, the “practice of chiropractic” has the same definition, except that the chiropractic adjustments and principles or techniques of chiropractic science must be those that are taught at a college or university approved by the Council on Chiropractic Education or any successor organization.

***Patient evaluations, treatments, and referrals***

This bill requires a chiropractor to evaluate a patient to determine whether the patient has a condition that is treatable by chiropractic means. The evaluation must be based on an examination that is appropriate to the patient. Also, a chiropractor must utilize chiropractic science, as defined by rule by the Chiropractic Examining Board, and the principles of education and training of the chiropractic profession.

Under the bill, a chiropractor must discontinue treatment if, at any time, the chiropractor determines, or reasonably should have determined, that the patient’s condition will not respond to further chiropractic treatment. Also, if a chiropractor makes such a determination, the chiropractor must inform the patient and refer the patient to a physician. If the referral is in writing, the chiropractor must provide a copy to the patient and maintain a copy with the patient’s records. If the referral is made orally, the chiropractor must notify the patient about the referral and make a written record of the referral, which must be maintained with the patient’s records.

Finally, the bill creates one exception to the requirement to discontinue treatment under the circumstances described above. The exception is that the bill allows a chiropractor to provide supportive care to a patient being treated by another health care professional.

***Unprofessional conduct***

Under current law, the Chiropractic Examining Board may investigate allegations of misconduct against a chiropractor and, following a hearing, may revoke, limit, or suspend the chiropractor’s license.

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Under this bill, the Chiropractic Examining Board must establish a Peer Review Panel of qualified chiropractors to evaluate a claim that a chiropractor provided inappropriate care to a patient. Under the bill, a finding by the Peer Review Panel that the chiropractor has provided a certain number of inappropriate services to a patient constitutes misconduct for which his or her license may be suspended or revoked.

The bill also creates several new categories of misconduct for which a chiropractor may have his or her license suspended, including improper billing and falsifying an insurance claim. In addition, under the bill, the Chiropractic Examining Board must suspend the license of a chiropractor who commits a third misconduct violation, for no less than six months.

Finally, the bill prohibits sexual misconduct by chiropractors. Sexual misconduct is sexual contact, exposure, or gratification, sexually offensive communication, dating a patient under the chiropractor's professional care or treatment, or other sexual behavior with or in the presence of a patient under the chiropractor's professional care or treatment. A chiropractor who commits sexual misconduct that does not involve physical contact with a patient shall have his or her license suspended for not less than 90 days. A chiropractor who commits a second act of sexual misconduct that does not involve physical contact or a first act of sexual misconduct that does involve physical contact shall have his or her license suspended for one year, and a chiropractor who commits a third act of sexual misconduct that does not involve physical contact or a second act of sexual misconduct that does involve physical contact shall have his or her license revoked.

***Delegations by chiropractors***

Under current law, a chiropractor licensed by the Chiropractic Examining Board is allowed to delegate services that are adjunctive to the practice of chiropractic to individuals who are not licensed by the Chiropractic Examining Board, but only if the services are performed under the direct, on-premises supervision of the chiropractor. In addition, current law prohibits a chiropractor from delegating to individuals not licensed by the Chiropractic Examining Board the making of a diagnosis, the performance of a chiropractic adjustment, the analysis of a diagnostic test or clinical information, or any practice or service that the Chiropractic Examining Board specifies in rules.

This bill creates an exception to the prohibition described above. Under the bill, a chiropractor may delegate to a physician assistant licensed by the Medical Examining Board the making of a diagnosis, the analysis of a diagnostic test or clinical information, or any practice or service that the Chiropractic Examining Board specifies in rules. However, a chiropractor may not delegate the performance of a chiropractic adjustment to a physician assistant. Also, a delegation may not exceed the chiropractor's scope of practice or the education, training, or experience of the physician assistant. A delegation to a physician assistant allowed under the bill does not have to be under the direct, on-premises supervision of a chiropractor.

The bill also requires a chiropractor who applies to renew his or her license to identify each employee to whom clinical work is delegated, except that the following do not have to be identified: nurses, physician assistants, physical therapists, and

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athletic trainers. In addition, if the Chiropractic Examining Board has promulgated rules that require an employee who is required to be identified to complete a training program or course of instruction to perform the delegated work, the chiropractor must also provide in his or her application for renewal the name, date, and sponsoring organization for the training program or course of instruction that the employee completed.

Finally, the bill changes the definitions of "practical nursing" and "professional nursing" to include actions taken under the supervision or direction of a chiropractor, in addition to actions taken under the supervision or direction of other health care professionals that are specified under current law.

***Continuing education***

Under current law, a chiropractor licensed by the Chiropractic Examining Board must complete any continuing education that the board requires in order to renew his or her license, which must be renewed every two years. This bill creates additional requirements regarding continuing education.

Under the bill, the Chiropractic Examining Board must establish the minimum number of hours of continuing education courses that must be completed during the two-year licensure period. As under current law, a chiropractor does not have to begin complying with continuing education requirements under the bill until the first two-year licensure period beginning after he or she initially receives his or her license.

Also under the bill, only courses that are approved by the Chiropractic Examining Board may be used to satisfy the minimum hours required. The Chiropractic Examining Board may only approve a course if the organization that sponsors the course (sponsoring organization) satisfies certain requirements. The sponsoring organization must be the Wisconsin, American, or International Chiropractic Association, or an approved chiropractic, medical, or osteopathic college or university. Also, the sponsoring organization must carry out specified duties, including selecting the course instructor, preparing course materials, evaluating the course, maintaining transcripts, performing financial administration, proctoring attendance, providing attendance vouchers, and supplying a list of attendees to the Chiropractic Examining Board. The sponsoring organization is also allowed to delegate these duties to another organization. The Chiropractic Examining Board must withdraw or withhold approval from a sponsoring organization for a two-year period if the sponsoring organization fails to carry out any of the duties, or if an organization to which a duty is delegated fails to carry out any of the duties.

The bill requires the Chiropractic Examining Board periodically to publish an updated list of approved courses. A chiropractor who applies to renew his or her license must identify the courses used to satisfy the minimum hour requirement on a form provided by the Department of Regulation and Licensing. The bill requires the Department of Regulation and Licensing to audit ~~at least 25%~~ of the renewal applications received during each two-year licensure period to determine whether an applicant has attended the courses that he or she identifies on the form.

a percentage was determined  
by the Department

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Finally, the bill allows the Chiropractic Examining Board to take disciplinary action against a licensed chiropractor who violates any state law or rule regulating chiropractors, including the continuing education requirements.

***Nutritional guidance***

This bill requires certain chiropractors licensed by the Chiropractic Examining Board to complete a postgraduate course of study in nutrition before they may provide counsel, guidance, direction, advice, or recommendations to patients regarding the health benefits of vitamins, herbs, or nutritional supplements. However, the requirement applies only to chiropractors who were granted licenses on or before January 1, 2003. In addition, the requirement does not apply to chiropractors who are also certified as dietitians by the Dietitians Affiliated Credentialing Board. The required course of study must consist of 48 hours and must be approved by the Chiropractic Examining Board.

***Statutory references to physicians and chiropractors***

Under current law, if the term “physician” is used in the statutes, it means a physician licensed by the Medical Examining Board, except if that meaning is inconsistent with the legislature’s manifest intent. Also, under current law, if “chiropractor” is used in the statutes, it means a chiropractor licensed by the Chiropractic Examining Board, with the same exception regarding legislative intent.

Under this bill, if the term “physician” is used in the statutes, it means either a physician licensed by the Medical Examining Board or a chiropractor licensed by the Chiropractic Examining Board, with the same exception under current law regarding legislative intent. As a result, the following provisions that refer to a “physician” under current law are changed under the bill to refer to either a physician licensed by the Medical Examining Board or a chiropractor licensed by the Chiropractic Examining Board:

1. Certifications, reports, or other requirements regarding handicap, disability, illness, physical fitness, or other physical condition that are related to class B hunting permits, testimony by telephone at tax dispute hearings conducted by a board of review, releases of land from farmland preservation agreements, polygraph testing by employers, verification of illness of striking municipal workers, duty of hospitals to provide emergency treatment, notification of the Department of Transportation about a patient’s ability to drive, and participation in a property tax loan program administered by the Wisconsin Housing and Economic Development Authority, and driver’s instructor licenses.

2. Certifications, reports, or examinations regarding handicap, disability, or other physical condition required for participation in a program for state agencies to make procurements from work centers for the severely physically handicapped, disability annuities administered by the Employee Trust Funds Board, eligibility of veterans for public employment, and exemptions of unemployed persons from certain supervision fees otherwise required by the Department of Corrections.

3. Appointments to the Private Employer Health Coverage Board in the Department of Employee Trust Funds, appointments of town physicians by certain towns, appointments of chief medical officers by the state health officer,

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appointments to local boards of health, and appointments of local health officers by towns and villages.

4. Privacy requirements for medical communications regarding residents of nursing homes and community-based residential facilities and for releases of information by the Department of Health and Family Services, and requirements regarding the release of employee medical records by employers.

5. Reports required for accidents involving all-terrain vehicles and snowmobiles and investigations of snowmobile accidents by the Department of Natural Resources.

6. Requirements for drawing blood for testing persons arrested for intoxicated operation of motor vehicles, all-terrain vehicles, snowmobiles, or boats.

7. Physical examinations required for civil service employees of first class cities, for participation in the Wisconsin service and conservation corps programs, and for certain school employees and statements about job applicants obtained by the Division of Merit Recruitment and Selection of the Department of Employment Relations.

8. Access to physical examinations and medical evidence in personal injury actions.

9. Standards for hospice care in rules promulgated by the Department of Health and Family Services.

10. Requirements for participating in the Volunteer Health Care Provider program administered by the Department of Health and Family Services.

11. Eligibility of nonprofit hospitals for property tax exemption regarding certain health and fitness centers.

12. Reports of sexual assault or incest relating to eligibility for benefits under the Wisconsin Works and Aid to Families with Dependent Children programs.

13. Duty to refer children with disabilities to local educational agencies.

14. Preexisting condition requirements in medicare supplement, medicare replacement, or long-term care insurance policies.

15. Reduced railroad rates allowed for physicians.

16. Exception to immunity from civil liability for emergency care that applies to care provided in a physician's office.

Finally, the bill specifies that other references to a "physician" under current law mean a physician licensed by the Medical Examining Board. As a result, the bill does not change the meaning of those references under current law.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           SECTION 1. 15.165 (5) (a) 7. of the statutes is amended to read:

2           15.165 (5) (a) 7. One member who is a physician, ~~as defined in s. 448.01 (5).~~

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1           **SECTION 2.** 15.197 (25) (a) 1. of the statutes is amended to read:

2           15.197 (25) (a) 1. Four physicians, as defined in s. 448.01 (5), who represent  
3 urban and rural areas.

4           **SECTION 3.** 15.405 (7m) of the statutes is amended to read:

5           15.405 (7m) NURSING HOME ADMINISTRATOR EXAMINING BOARD. There is created  
6 a nursing home administrator examining board in the department of regulation and  
7 licensing consisting of 9 members appointed for staggered 4-year terms and the  
8 secretary of health and family services or a designee, who shall serve as a nonvoting  
9 member. Five members shall be nursing home administrators licensed in this state.  
10 One member shall be a physician as defined in s. 448.01 (5). One member shall be  
11 a nurse licensed under ch. 441. Two members shall be public members. No more than  
12 2 members may be officials or full-time employees of this state.

13          **SECTION 4.** 15.407 (1m) of the statutes is amended to read:

14          15.407 (1m) RESPIRATORY CARE PRACTITIONERS EXAMINING COUNCIL. There is  
15 created a respiratory care practitioners examining council in the department of  
16 regulation and licensing and serving the medical examining board in an advisory  
17 capacity in the formulating of rules to be promulgated by the medical examining  
18 board for the regulation of respiratory care practitioners. The respiratory care  
19 practitioners examining council shall consist of 3 certified respiratory care  
20 practitioners, each of whom shall have engaged in the practice of respiratory care for  
21 at least 3 years preceding appointment, one physician, as defined in s. 448.01 (5), and  
22 one public member. The respiratory care practitioner and physician members shall  
23 be appointed by the medical examining board. The members of the examining  
24 council shall serve 3-year terms. Section 15.08 (1) to (4) (a) and (6) to (10) shall apply  
25 to the respiratory care practitioners examining council.



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1           **SECTION 5.** 15.915 (2) (b) of the statutes is amended to read:

2           15.915 (2) (b) A representative of local health departments who is not an  
3 employee of the department of health and family services, one physician, as defined  
4 in s. 448.01 (5), representing clinical laboratories, one member representing private  
5 environmental testing laboratories, one member representing occupational health  
6 laboratories and 3 additional members, one of whom shall be a medical examiner or  
7 coroner, appointed for 3-year terms. No member appointed under this paragraph  
8 may be an employee of the laboratory of hygiene.

9           **SECTION 6.** 16.009 (1) (h) of the statutes is repealed.

10          **SECTION 7.** 20.927 (1m) of the statutes is amended to read:

11          20.927 (1m) Except as provided under subs. (2) and (3), no funds of this state  
12 or of any county, city, village, town or family care district under s. 46.2895 or of any  
13 subdivision or agency of this state or of any county, city, village or town and no federal  
14 funds passing through the state treasury shall be authorized for or paid to a  
15 physician, as defined in s. 448.01 (5), or surgeon or a hospital, clinic or other medical  
16 facility for the performance of an abortion.

17          **SECTION 8.** 29.193 (3) (a) of the statutes is amended to read:

18          29.193 (3) (a) Produces a certificate from a ~~licensed~~ physician, as defined in s.  
19 448.01 (5), or optometrist stating that his or her sight is impaired to the degree that  
20 he or she cannot read ordinary newspaper print with or without corrective glasses.

21          **SECTION 9.** 30.67 (6) (b) of the statutes is amended to read:

22          30.67 (6) (b) In cases of death involving a boat in which the person died within  
23 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be  
24 withdrawn from the body of the decedent within 12 hours after his or her death, by  
25 the coroner or medical examiner or by a physician, as defined in s. 448.01 (5), so

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1 designated by the coroner or medical examiner or by a qualified person at the  
2 direction of the physician. All morticians shall obtain a release from the coroner or  
3 medical examiner prior to proceeding with embalming any body coming under the  
4 scope of this section. The blood so drawn shall be forwarded to a laboratory approved  
5 by the state health officer for analysis of the alcoholic content of the blood specimen.  
6 The coroner or medical examiner causing the blood to be withdrawn shall be notified  
7 of the results of each analysis made and shall forward the results of each analysis  
8 to the state health officer. The state health officer shall keep a record of all  
9 examinations to be used for statistical purposes only. The cumulative results of the  
10 examinations, without identifying the individuals involved, shall be disseminated  
11 and made public by the state health officer. The department shall reimburse  
12 coroners and medical examiners for the costs incurred in submitting reports and  
13 taking blood specimens and laboratories for the costs incurred in analyzing blood  
14 specimens under this section.

15 **SECTION 10.** 36.25 (11) (b) of the statutes is amended to read:

16 36.25 (11) (b) The laboratory shall provide complete laboratory services in the  
17 areas of water quality, air quality, public health and contagious diseases for  
18 appropriate state agencies, and may perform examinations for licensed physicians,  
19 as defined in s. 448.01 (5), veterinarians, local health officers, as defined in s. 250.01  
20 (5), and resource management officials as may be necessary for the prevention and  
21 control of those diseases and environmental hazards which cause concern for public  
22 health and environmental quality.

23 **SECTION 11.** 36.25 (13g) (b) 2. of the statutes is amended to read:

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1           36.25 (13g) (b) 2. Providing an environment suitable for instructing medical  
2           and other health professions students, physicians, as defined in s. 448.01 (5), nurses  
3           and members of other health-related disciplines.

4           **SECTION 12.** 39.16 (2) (d) of the statutes is amended to read:

5           39.16 (2) (d) Encourage the development of continuing education programs for  
6           practicing physicians, as defined in s. 448.01 (5), in this state, including  
7           communication links with outlying regions of the state that would allow  
8           practitioners to have access to their medical schools.

9           **SECTION 13.** 46.18 (10) of the statutes is amended to read:

10          46.18 (10) ANNUAL REPORT. On July 1 of each year the trustees shall prepare  
11          a report for the preceding fiscal year and shall transmit a copy to the department of  
12          health and family services and a copy to the county clerk, and keep a copy on file at  
13          the institution. The report shall be accompanied by an inventory of all properties on  
14          hand on the last day of the fiscal year, an estimate of the receipts and expenditures  
15          for the current fiscal year, and the reports of the superintendent and visiting  
16          physician, as defined in s. 448.01 (5), of the institution.

17          **SECTION 14.** 46.19 (4) of the statutes is amended to read:

18          46.19 (4) The salaries of the superintendent, visiting physician, as defined in  
19          s. 448.01 (5), and all necessary additional officers and employees shall be fixed by the  
20          county board.

21          **SECTION 15.** 46.21 (2) (m) of the statutes is amended to read:

22          46.21 (2) (m) May establish and maintain in connection with such county  
23          hospital, an emergency unit or department for the treatment, subject to such rules  
24          as may be prescribed by the county board of supervisors, of persons in the county who  
25          may meet with accidents or be suddenly afflicted with illness not contagious;

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1 provided that medical care and treatment shall only be furnished in such unit or  
2 department until such time as the patient may be safely removed to another hospital  
3 or to his or her place of abode, or regularly admitted to the county hospital. The  
4 county board of supervisors may also contract with any private hospital or nonprofit  
5 hospital within the county for the use of its facilities and for medical service to be  
6 furnished by a licensed physician, or physicians, as defined in s. 448.01 (5), to  
7 patients who require emergency medical treatment or first aid as a result of any  
8 accident, injury or sudden affliction of illness occurring within the county, except  
9 that reasonable compensation may only be authorized until the patient is regularly  
10 admitted as an inpatient or safely removed to another hospital or to his place of  
11 abode. In this paragraph, "hospital" includes, without limitation due to  
12 enumeration, public health centers, medical facilities and general, tuberculosis,  
13 mental, chronic disease and other types of hospitals and related facilities, such as  
14 laboratories, outpatient departments, nurses' home and training facilities, and  
15 central service facilities operated in connection with hospitals. In this paragraph,  
16 "hospital" does not include any hospital furnishing primarily domiciliary care. In  
17 this paragraph "nonprofit hospital" means any hospital owned and operated by a  
18 corporation or association, no part of the net earnings of which inures, or may  
19 lawfully inure, to the benefit of any private shareholder or individual.

20 **SECTION 16.** 46.21 (4m) (a) of the statutes is amended to read:

21 46.21 (4m) (a) The county hospitals and county sanatoriums of a county with  
22 a population of 500,000 or more shall be devoted to hospital service and the  
23 treatment of patients upon such terms and conditions as the county board of  
24 supervisors establishes. The hospitals and sanatoriums may be utilized for  
25 instruction of medical students, physicians, as defined in s. 448.01 (5), and nurses

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1 and for scientific and clinical research that will promote the welfare of the patients  
2 and assist the application of science to the alleviation of human suffering.

3 **SECTION 17.** 46.245 of the statutes is amended to read:

4 **46.245 Information for certain pregnant women.** Upon request, a county  
5 department under s. 46.215, 46.22 or 46.23 shall distribute the materials described  
6 under s. 253.10 (3) (d), as prepared and distributed by the department. A physician,  
7 as defined in s. 448.01 (5), who intends to perform or induce an abortion or another  
8 qualified physician, as defined in s. 253.10 (2) (g), who reasonably believes that he  
9 or she might have a patient for whom the information under s. 253.10 (3) (d) is  
10 required to be given, shall request a reasonably adequate number of the materials  
11 from the county department under this section or from the department under s.  
12 253.10 (3) (d). An individual may request a reasonably adequate number of the  
13 materials.

14 **SECTION 18.** 46.27 (1) (bg) of the statutes is created to read:

15 46.27 (1) (bg) "Physician" has the meaning given in s. 448.01 (5).

16 **SECTION 19.** 46.297 (2) (a) of the statutes is amended to read:

17 46.297 (2) (a) The person is certified as deaf or severely hearing impaired by  
18 a physician, as defined in s. 448.01 (5), an audiologist licensed under subch. II of ch.  
19 459, or the department.

20 **SECTION 20.** 46.298 of the statutes is amended to read:

21 **46.298 Vehicle sticker for the hearing impaired.** Upon the request of a  
22 person who is certified as hearing impaired by the department, by a physician, as  
23 defined in s. 448.01 (5), by a hearing instrument specialist licensed under subch. I  
24 of ch. 459 or by an audiologist licensed under subch. II of ch. 459, the department  
25 shall issue to the person a decal or sticker for display on a motor vehicle owned or

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1 frequently operated by the person to apprise law enforcement officers of the fact that  
2 the vehicle is owned or operated by a hearing-impaired person. No charge shall be  
3 made for issuance of the decal or sticker. The department shall specify the design  
4 of the decal or sticker. The department shall designate the location on the vehicle  
5 at which the decal or sticker shall be affixed by its own adhesive.

6 **SECTION 21.** 46.56 (3) (b) 3. of the statutes is amended to read:

7 46.56 (3) (b) 3. Physicians, as defined in s. 448.01 (5), specializing in care for  
8 children.

9 **SECTION 22.** 46.87 (5) (a) 1. of the statutes is amended to read:

10 46.87 (5) (a) 1. At least one member of the household must be a person who has  
11 been diagnosed by a physician, as defined in s. 448.01 (5), as having Alzheimer's  
12 disease.

13 **SECTION 23.** 48.02 (14k) of the statutes is created to read:

14 48.02 (14k) "Physician" has the meaning given in s. 448.01 (5).

15 **SECTION 24.** 49.26 (1) (g) 11. of the statutes is amended to read:

16 49.26 (1) (g) 11. If the individual is the mother of a child, a physician, as defined  
17 in s. 448.01 (5), has not determined that the individual should delay her return to  
18 school after giving birth.

19 **SECTION 25.** 49.43 (9) of the statutes is amended to read:

20 49.43 (9) "Physician" ~~means a person licensed to practice medicine and surgery,~~  
21 ~~and includes graduates of osteopathic colleges holding an unlimited license to~~  
22 ~~practice medicine and surgery~~ has the meaning given in s. 448.01 (5).

23 **SECTION 26.** 50.01 (4p) of the statutes is created to read:

24 50.01 (4p) "Physician" has the meaning given in s. 448.01 (5).

25 **SECTION 27.** 50.09 (1) (a) (intro.) of the statutes is amended to read:

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1           50.09 (1) (a) (intro.) Private and unrestricted communications with the  
2     resident's family, physician, chiropractor, attorney and any other person, unless  
3     medically contraindicated as documented by the resident's physician or chiropractor  
4     in the resident's medical record, except that communications with public officials or  
5     with the resident's attorney shall not be restricted in any event. The right to private  
6     and unrestricted communications shall include, but is not limited to, the right to:

7           **SECTION 28.** 50.36 (3g) (c) of the statutes is amended to read:

8           50.36 (3g) (c) If a hospital grants a psychologist hospital staff privileges or  
9     limited hospital staff privileges under par. (b), the psychologist or the hospital shall,  
10    prior to or at the time of hospital admission of a patient, identify an appropriate  
11    physician, as defined in s. 448.01 (5), with admitting privileges at the hospital who  
12    shall be responsible for the medical evaluation and medical management of the  
13    patient for the duration of his or her hospitalization.

14          **SECTION 29.** 50.49 (1) (d) of the statutes is created to read:

15          50.49 (1) (d) "Physician" has the meaning given in s. 448.01 (5).

16          **SECTION 30.** 50.90 (3) of the statutes is amended to read:

17          50.90 (3) "Palliative care" means management and support provided for the  
18    reduction or abatement of pain, for other physical symptoms and for psychosocial or  
19    spiritual needs of individuals with terminal illness and includes ~~physician~~ services  
20    provided by a physician, skilled nursing care, medical social services, services of  
21    volunteers, and bereavement services. "Palliative care" does not mean treatment  
22    provided in order to cure a medical condition or disease or to artificially prolong life.

23          **SECTION 31.** 51.01 (13m) of the statutes is created to read:

24          51.01 (13m) "Physician" has the meaning given in s. 448.01 (5).

25          **SECTION 32.** 55.043 (1) (b) (intro.) of the statutes is amended to read:

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1           55.043 (1) (b) (intro.) The county protective services agency may transport the  
2           vulnerable adult for performance of a medical examination by a physician, as defined  
3           in s. 448.01 (5), if any of the following applies:

4           **SECTION 33.** 59.53 (13) (a) of the statutes is amended to read:

5           59.53 (13) (a) No county, or agency or subdivision of the county, may authorize  
6           funds for or pay to a physician, as defined in s. 448.01 (5), or surgeon or a hospital,  
7           clinic or other medical facility for the performance of an abortion except those  
8           permitted under and which are performed in accordance with s. 20.927.

9           **SECTION 34.** 59.64 (1) (a) of the statutes is amended to read:

10          59.64 (1) (a) *In general.* Every person, except jurors, witnesses and  
11          interpreters, and except physicians, as defined in s. 448.01 (5), or other persons who  
12          are entitled to receive from the county fees for reporting to the register of deeds births  
13          or deaths, which have occurred under their care, having any claim against any  
14          county shall comply with s. 893.80. This paragraph does not apply to actions  
15          commenced under s. 19.37, 19.97 or 281.99.

16          **SECTION 35.** 66.0601 (1) (b) of the statutes is amended to read:

17          66.0601 (1) (b) *Payments for abortions restricted.* No city, village, town, family  
18          care district under s. 46.2895 or agency or subdivision of a city, village or town may  
19          authorize funds for or pay to a physician, as defined in s. 448.01 (5), or surgeon or a  
20          hospital, clinic or other medical facility for the performance of an abortion except  
21          those permitted under and which are performed in accordance with s. 20.927.

22          **SECTION 36.** 69.01 (17m) of the statutes is created to read:

23          69.01 (17m) “Physician” has the meaning given in s. 448.01 (5).

24          **SECTION 37.** 70.11 (25) of the statutes is amended to read:



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1           70.11 (25) NONPROFIT MEDICAL RESEARCH FOUNDATIONS. Property owned and  
2           operated by a corporation, voluntary association, foundation or trust, no part of the  
3           net earnings of which inure to the benefit of any shareholder, member, director or  
4           officer thereof, which property is used exclusively for the purposes of: medical and  
5           surgical research the knowledge derived from which is applied to the cures,  
6           prevention, relief and therapy of human diseases; providing instruction for  
7           practicing physicians ~~and surgeons, as defined in s. 448.01 (5)~~, promoting education,  
8           training, skill and investigative ability of physicians, as defined in s. 448.01 (5),  
9           scientists and individuals engaged in work in the basic sciences which bear on  
10          medicine and surgery; or providing diagnostic facilities and treatment for deserving  
11          destitute individuals not eligible for assistance from charitable or governmental  
12          institutions. Such corporation, voluntary association, foundation or trust must have  
13          received a certificate under section 501 (c) (3) of the internal revenue code as a  
14          nonprofit organization exempt for income tax purposes.

15           **SECTION 38.** 77.51 (10m) of the statutes is created to read:

16           77.51 (10m) "Physician" has the meaning given in s. 448.01 (5).

17           **SECTION 39.** 94.70 (3) (b) of the statutes is amended to read:

18           94.70 (3) (b) Use for personal advantage or reveal, other than to federal or state  
19           agencies, the courts, physicians, as defined in s. 448.01 (5), pharmacists or other  
20           persons requiring the information for the performance of their duties, any  
21           information relative to formulas acquired in the administration of ss. 94.67 to 94.71  
22           which may be confidential under the federal act or otherwise constitute a trade secret  
23           as defined in s. 134.90 (1) (c).

24           **SECTION 40.** 95.21 (1) (dm) of the statutes is created to read:

25           95.21 (1) (dm) "Physician" has the meaning given in s. 448.01 (5).

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1           **SECTION 41.** 97.18 (5) of the statutes is amended to read:

2           97.18 (5) The serving of oleomargarine or margarine to students, patients or  
3 inmates of any state institutions as a substitute for table butter is prohibited, except  
4 that such substitution may be ordered by the institution superintendent when  
5 necessary for the health of a specific patient or inmate, if directed by the physician,  
6 as defined in s. 448.01 (5), in charge of the patient or inmate.

7           **SECTION 42.** 97.48 (2) of the statutes is amended to read:

8           97.48 (2) This section does not prohibit the manufacture or sale of proprietary  
9 foods containing milk or skim milk to which have been added any fat or oil other than  
10 milk fat when such foods are clearly labeled to show their composition and the fact  
11 that they are to be sold exclusively for use as directed by physicians, as defined in  
12 s. 448.01 (5).

13          **SECTION 43.** 100.43 (3) (c) of the statutes is amended to read:

14          100.43 (3) (c) A household substance, subject to special packaging standards,  
15 which is dispensed pursuant to a prescription of a physician, as defined in s. 448.01  
16 (5), dentist, or other licensed medical practitioner may be sold in conventional or  
17 noncomplying packages when directed in such prescription or requested by the  
18 purchaser.

19          **SECTION 44.** 101.01 (10m) of the statutes is created to read:

20          101.01 (10m) "Physician" has the meaning given in s. 448.01 (5).

21          **SECTION 45.** 102.565 (2) of the statutes is amended to read:

22          102.565 (2) Upon application of any employer or employee the department may  
23 direct any employee of the employer or an employee who, in the course of his or her  
24 employment, has been exposed to toxic or hazardous substances or conditions, to  
25 submit to examination by a physician or physicians, as defined in s. 448.01 (5), to be

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1 appointed by the department to determine whether the employee has developed any  
2 abnormality or condition under sub. (1), and the degree thereof. The cost of the  
3 medical examination shall be borne by the person making application. The results  
4 of the examination shall be submitted by the physician to the department, which  
5 shall submit copies of the reports to the employer and employee, who shall have  
6 opportunity to rebut the reports provided request therefor is made to the department  
7 within 10 days from the mailing of the report to the parties. The department shall  
8 make its findings as to whether or not it is inadvisable for the employee to continue  
9 in his or her employment.

10 **SECTION 46.** 106.50 (2r) (bm) 2. of the statutes is amended to read:

11 106.50 (2r) (bm) 2. Subdivision 1. does not apply in the case of the rental of  
12 owner-occupied housing if the owner or a member of his or her immediate family  
13 occupying the housing possesses and, upon request, presents to the individual a  
14 certificate signed by a physician, as defined in s. 448.01 (5), which states that the  
15 owner or family member is allergic to the type of animal the individual possesses.

16 **SECTION 47.** 115.53 (4) (a) of the statutes is amended to read:

17 115.53 (4) (a) The application shall be accompanied by the report of a physician,  
18 as defined in s. 448.01 (5), appointed by the director of the Wisconsin Educational  
19 Services Program for the Deaf and Hard of Hearing or the director of the Wisconsin  
20 Center for the Blind and Visually Impaired and shall be in the same form as reports  
21 of other physicians for admission of patients to such hospital.

22 **SECTION 48.** 118.135 (3) of the statutes is amended to read:

23 118.135 (3) To the extent feasible, the medical examining board and the  
24 optometry examining board shall encourage physicians, as defined in s. 448.01 (5),  
25 and optometrists, for the purpose of this section, to conduct free eye examinations or

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1 evaluations of pupils who are in financial need and do not have insurance coverage  
2 for eye examinations or evaluations.

3 **SECTION 49.** 118.29 (1) (e) of the statutes is amended to read:

4 118.29 (1) (e) "Practitioner" means any physician, as defined in s. 448.01 (5),  
5 dentist, optometrist, physician assistant, advanced practice nurse prescriber, or  
6 podiatrist licensed in any state.

7 **SECTION 50.** 118.291 (1) (b) of the statutes is amended to read:

8 118.291 (1) (b) The pupil has the written approval of the pupil's physician, as  
9 defined in s. 448.01 (5), and, if the pupil is a minor, the written approval of the pupil's  
10 parent or guardian.

11 **SECTION 51.** 146.0255 (2) of the statutes is amended to read:

12 146.0255 (2) TESTING. Any hospital employee who provides health care, social  
13 worker or intake worker under ch. 48 may refer an infant or an expectant mother of  
14 an unborn child, as defined in s. 48.02 (19), to a physician, as defined in s. 448.01 (5),  
15 for testing of the bodily fluids of the infant or expectant mother for controlled  
16 substances or controlled substance analogs if the hospital employee who provides  
17 health care, social worker or intake worker suspects that the infant or expectant  
18 mother has controlled substances or controlled substance analogs in the bodily fluids  
19 of the infant or expectant mother because of the use of controlled substances or  
20 controlled substance analogs by the mother while she was pregnant with the infant  
21 or by the expectant mother while she is pregnant with the unborn child. The  
22 physician may test the infant or expectant mother to ascertain whether or not the  
23 infant or expectant mother has controlled substances or controlled substance  
24 analogs in the bodily fluids of the infant or expectant mother, if the physician  
25 determines that there is a serious risk that there are controlled substances or

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1 controlled substance analogs in the bodily fluids of the infant or expectant mother  
2 because of the use of controlled substances or controlled substance analogs by the  
3 mother while she was pregnant with the infant or by the expectant mother while she  
4 is pregnant with the unborn child and that the health of the infant, the unborn child  
5 or the child when born may be adversely affected by the controlled substances or  
6 controlled substance analogs. If the results of the test indicate that the infant does  
7 have controlled substances or controlled substance analogs in the infant's bodily  
8 fluids, the physician shall make a report under s. 46.238. If the results of the test  
9 indicate that the expectant mother does have controlled substances or controlled  
10 substance analogs in the expectant mother's bodily fluids, the physician may make  
11 a report under s. 46.238. Under this subsection, no physician may test an expectant  
12 mother without first receiving her informed consent to the testing.

13 **SECTION 52.** 146.15 of the statutes is amended to read:

14 **146.15 Information.** State officials, physicians, as defined in s. 448.01 (5), of  
15 mining, manufacturing and other companies or associations, officers and agents of  
16 a company incorporated by or transacting business under the laws of this state, shall  
17 when requested furnish, so far as practicable, the department any information  
18 required touching the public health; and for refusal shall forfeit \$10.

19 **SECTION 53.** 146.17 of the statutes is amended to read:

20 **146.17 Limitations.** Nothing in the statutes shall be construed to authorize  
21 interference with the individual's right to select his or her own physician, as defined  
22 in s. 448.01 (5), or mode of treatment, nor as a limitation upon the municipality to  
23 enact measures in aid of health administration, consistent with statute and acts of  
24 the department.

25 **SECTION 54.** 146.31 (1) of the statutes is renumbered 146.31 (1r).

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**SECTION 55.** 146.31 (1g) of the statutes is created to read:

146.31 (1g) In this section, “physician” has the meaning given in s. 448.01 (5).

**SECTION 56.** 146.55 (1) (fm) of the statutes is created to read:

146.55 (1) (fm) “Physician” has the meaning given in s. 448.01 (5).

**SECTION 57.** 146.58 (1) of the statutes is amended to read:

146.58 (1) Appoint an advisory committee of physicians, as defined in s. 448.01 (5), with expertise in the emergency medical services area to advise the department on the criteria for selection of the state medical director for emergency medical services and on the performance of the director and to advise the director on appropriate medical issues.

**SECTION 58.** 146.815 (1) of the statutes is renumbered 146.815 (1r).

**SECTION 59.** 146.815 (1g) of the statutes is created to read:

146.815 (1g) In this section, “physician” has the meaning given in s. 448.01 (5).

**SECTION 60.** 146.82 (2) (a) 5. of the statutes is amended to read:

146.82 (2) (a) 5. In response to a written request by any federal or state governmental agency to perform a legally authorized function, including but not limited to management audits, financial audits, program monitoring and evaluation, facility licensure or certification or individual licensure or certification. The private pay patient, except if a resident of a nursing home, may deny access granted under this subdivision by annually submitting to a health care provider, other than a nursing home, a signed, written request on a form provided by the department. The provider, if a hospital, shall submit a copy of the signed form to the patient’s physician, as defined in s. 448.01 (5).

**SECTION 61.** 146.89 (1) of the statutes is amended to read:

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1           146.89 (1) In this section, “volunteer health care provider” means an individual  
2    who is ~~licensed as a physician under ch. 448, or who is licensed as a dentist under~~  
3    ch. 447, registered nurse, practical nurse or nurse-midwife under ch. 441,  
4    optometrist under ch. 449 or physician assistant under ch. 448 or certified as a  
5    dietitian under subch. V of ch. 448 and who receives no income from the practice of  
6    that health care profession or who receives no income from the practice of that health  
7    care profession when providing services at the nonprofit agency specified under sub.  
8    (3).

9           **SECTION 62.** 146.89 (2) (b) of the statutes is amended to read:

10          146.89 (2) (b) The department of administration may send an application to the  
11    medical examining board or chiropractic examining board for evaluation. The  
12    medical examining board or chiropractic examining board shall evaluate any  
13    application submitted by the department of administration and return the  
14    application to the department of administration with the board’s recommendation  
15    regarding approval.

16          **SECTION 63.** 148.01 of the statutes is renumbered 148.01 (intro.) and amended  
17    to read:

18          **148.01 (intro.) Definition Definitions.** In this chapter, “~~medical society~~”:

19          (1) “Medical society” means the State Medical Society of Wisconsin and any  
20    county medical society organized or continued under this chapter.

21          **SECTION 64.** 148.01 (2) of the statutes is created to read:

22          148.01 (2) “Physician” has the meaning given in s. 448.01 (5).

23          **SECTION 65.** 149.10 (7m) of the statutes is created to read:

24          149.10 (7m) “Physician” has the meaning given in s. 448.01 (5).

25          **SECTION 66.** 150.85 (4) (c) 2. of the statutes is amended to read:

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1           150.85 (4) (c) 2. Whether any reduction in competition among physicians, as  
2           defined in s. 448.01 (5), allied health professionals or other health care providers is  
3           likely to result directly or indirectly from the cooperative agreement.

4           **SECTION 67.** 154.01 (6) of the statutes is created to read:

5           154.01 (6) “Physician” has the meaning given in s. 448.01 (5).

6           **SECTION 68.** 155.01 (9m) of the statutes is created to read:

7           155.01 (9m) “Physician” has the meaning given in s. 448.01 (5).

8           **SECTION 69.** 155.05 (2) of the statutes is amended to read:

9           155.05 (2) Unless otherwise specified in the power of attorney for health care  
10          instrument, an individual’s power of attorney for health care takes effect upon a  
11          finding of incapacity by 2 physicians, ~~as defined in s. 448.01 (5)~~, or one physician and  
12          one licensed psychologist, as defined in s. 455.01 (4), who personally examine the  
13          principal and sign a statement specifying that the principal has incapacity. Mere old  
14          age, eccentricity or physical disability, either singly or together, are insufficient to  
15          make a finding of incapacity. Neither of the individuals who make a finding of  
16          incapacity may be a relative of the principal or have knowledge that he or she is  
17          entitled to or has a claim on any portion of the principal’s estate. A copy of the  
18          statement, if made, shall be appended to the power of attorney for health care  
19          instrument.

20          **SECTION 70.** 157.05 of the statutes is amended to read:

21          **157.05 Autopsy.** Consent for a licensed physician, as defined in s. 448.01 (5),  
22          to conduct an autopsy on the body of a deceased person shall be deemed sufficient  
23          when given by whichever one of the following assumes custody of the body for  
24          purposes of burial: Father, mother, husband, wife, child, guardian, next of kin, or in  
25          the absence of any of the foregoing, a friend, or a person charged by law with the



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responsibility for burial. If 2 or more such persons assume custody of the body, the consent of one of them shall be deemed sufficient.

**SECTION 71.** 157.06 (1) (h) of the statutes is amended to read:

157.06 (1) (h) “Physician” ~~means~~ has the meaning given in s. 448.01 (5), and also includes an individual licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.

**SECTION 72.** 165.765 (2) (a) of the statutes is amended to read:

165.765 (2) (a) Any physician, as defined in s. 448.01 (5), registered nurse, medical technologist, physician assistant or person acting under the direction of a physician who obtains a biological specimen under s. 165.76, 938.34 (15), 973.047 or 980.063 is immune from any civil or criminal liability for the act, except for civil liability for negligence in the performance of the act.

**SECTION 73.** 180.1903 (4) of the statutes is amended to read:

180.1903 (4) Each health care professional, other than a physician, as defined in s. 448.01 (5), or nurse anesthetist, who is a shareholder of a service corporation and who has the authority to provide health care services that are not under the direction and supervision of a physician, as defined in s. 448.01 (5), or nurse anesthetist shall carry malpractice insurance that provides coverage of not less than the amounts established under s. 655.23 (4).

**SECTION 74.** 185.983 (1) of the statutes is renumbered 185.983 (1r).

**SECTION 75.** 185.983 (1g) of the statutes is created to read:

185.983 (1g) “Physician” has the meaning given in s. 448.01 (5).

**SECTION 76.** 231.01 (7) (a) 2. of the statutes is amended to read:

231.01 (7) (a) 2. One or more structures suitable for use as a child care center, health facility, laboratory, laundry, nurses’ or interns’ residence or other multi-unit

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1 housing facility for staff, employees, patients or relatives of patients admitted for  
2 treatment or care in a health facility, physician's facility, administration building,  
3 research facility, maintenance, storage or utility facility. In this subdivision,  
4 "physician" has the meaning given in s. 448.01 (5).

5 **SECTION 77.** 233.04 (3b) (a) 2. of the statutes is amended to read:

6 233.04 (3b) (a) 2. Providing an environment suitable for instructing medical  
7 and other health professions students, physicians, as defined in s. 448.01 (5), nurses  
8 and members of other health-related disciplines.

9 **SECTION 78.** 250.01 (6) of the statutes is repealed.

10 **SECTION 79.** 252.01 (5) of the statutes is created to read:

11 252.01 (5) "Physician" has the meaning given in s. 448.01 (5).

12 **SECTION 80.** 252.14 (1) (ar) 4. of the statutes is amended to read:

13 252.14 (1) (ar) 4. A physician ~~licensed under subch. II of ch. 448.~~

14 **SECTION 81.** 252.15 (1) (am) of the statutes is amended to read:

15 252.15 (1) (am) "Health care professional" means a physician ~~who is licensed~~  
16 ~~under ch. 448~~ or a registered nurse or licensed practical nurse who is licensed under  
17 ch. 441.

18 **SECTION 82.** 252.23 (1) (a) of the statutes is amended to read:

19 252.23 (1) (a) "Tattoo" has the meaning given in s. 948.70 (1) (b).

20 **SECTION 83.** 253.01 of the statutes is renumbered 253.01 (intro.) and amended  
21 to read:

22 **253.01 (intro.) Definition Definitions.** In this chapter, ~~"division"~~:

23 (1) "Division" means the division within the department that has primary  
24 responsibility for health issues.

25 **SECTION 84.** 253.01 (2) of the statutes is created to read:

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1           253.01 (2) "Physician" has the meaning given in s. 448.01 (5).

2           **SECTION 85.** 253.12 (1) (d) of the statutes is repealed.

3           **SECTION 86.** 254.01 (3) of the statutes is created to read:

4           254.01 (3) "Physician" has the meaning given in s. 448.01 (5).

5           **SECTION 87.** 255.01 (2m) of the statutes is created to read:

6           255.01 (2m) "Physician" has the meaning given in s. 448.01 (5).

7           **SECTION 88.** 301.45 (1d) (q) of the statutes is created to read:

8           301.45 (1d) (q) "Physician" has the meaning given in s. 448.01 (5).

9           **SECTION 89.** 302.10 of the statutes is amended to read:

10          **302.10 Solitary confinement.** For violation of the rules of the prison an  
11 inmate may be confined to a solitary cell, under the care and advice of the physician,  
12 as defined in s. 448.01 (5).

13          **SECTION 90.** 302.113 (9g) (c) of the statutes is amended to read:

14          302.113 (9g) (c) An inmate who meets the criteria under par. (b) may submit  
15 a petition to the program review committee at the correctional institution in which  
16 the inmate is confined requesting a modification of the inmate's bifurcated sentence  
17 in the manner specified in par. (f). If the inmate alleges in the petition that he or she  
18 has a terminal condition, the inmate shall attach to the petition affidavits from 2  
19 physicians, as defined in s. 448.01 (5), setting forth a diagnosis that the inmate has  
20 a terminal condition.

21          **SECTION 91.** 302.37 (2) of the statutes is amended to read:

22          302.37 (2) Neither the sheriff or other keeper of any jail nor any other person  
23 shall give, sell or deliver to any prisoner for any cause whatever any alcohol  
24 beverages unless a physician, as defined in s. 448.01 (5), certifies in writing that the

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1 health of the prisoner requires it, in which case the prisoner may be allowed the  
2 quantity prescribed.

3 **SECTION 92.** 302.383 (1) (b) of the statutes is amended to read:

4 302.383 (1) (b) Ensure that the prisoner has been fully informed about his or  
5 her treatment needs, the mental health services available to him or her and his or  
6 her rights under ch. 51, and ensure that the prisoner has had an opportunity to  
7 discuss his or her needs, the services available to him or her and his or her rights with  
8 a licensed physician, as defined in s. 448.01 (5), licensed psychologist, or other mental  
9 health professional.

10 **SECTION 93.** 302.40 of the statutes is amended to read:

11 **302.40 Discipline; solitary confinement.** For violating the rules of the jail,  
12 an inmate may be kept in solitary confinement, under the care and advice of a  
13 physician, as defined in s. 448.01 (5), but not over 10 days.

14 **SECTION 94.** 343.045 of the statutes is created to read:

15 **343.045 Definition.** In this subchapter, “physician” has the meaning given  
16 in s. 448.01 (5).

17 **SECTION 95.** 343.63 (4) of the statutes is amended to read:

18 343.63 (4) The applicant shall submit with his or her application a statement  
19 completed by a registered physician showing that in the physician’s judgment the  
20 applicant is physically fit to teach driving.

21 **SECTION 96.** 346.01 (3) of the statutes is created to read:

22 346.01 (3) In this chapter, “physician” has the meaning given in s. 448.01 (5).

23 **SECTION 97.** 347.485 (2) (b) of the statutes is amended to read:

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1           347.485 (2) (b) Except for photosensitive corrective glasses prescribed by an  
2   ophthalmologist, physician, as defined in s. 448.01 (5), oculist or optometrist, eye  
3   protection worn during hours of darkness may not be tinted or darkened.

4           **SECTION 98.** 350.155 (2) of the statutes is amended to read:

5           350.155 (2) In cases of death involving a snowmobile in which the decedent died  
6   within 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be  
7   withdrawn from the body of the decedent within 12 hours after death, by the coroner  
8   or medical examiner or by a physician, as defined in s. 448.01 (5), so designated by  
9   the coroner or medical examiner or by a qualified person at the direction of such  
10   physician. All funeral directors shall obtain a release from the coroner or medical  
11   examiner prior to proceeding with embalming any body coming under the scope of  
12   this section. The blood so drawn shall be forwarded to a laboratory approved by the  
13   department of health and family services for analysis of the alcoholic content of such  
14   blood specimen. The coroner or medical examiner causing the blood to be withdrawn  
15   shall be notified of the results of each analysis made and shall forward the results  
16   of each such analysis to the department of health and family services. The  
17   department of health and family services shall keep a record of all such examinations  
18   to be used for statistical purposes only. The cumulative results of the examinations,  
19   without identifying the individuals involved, shall be disseminated and made public  
20   by the department of health and family services. The department shall reimburse  
21   coroners and medical examiners for the costs incurred in submitting reports and  
22   taking blood specimens and laboratories for the costs incurred in analyzing blood  
23   specimens under this section.

24           **SECTION 99.** 440.08 (2) (a) 58. of the statutes is amended to read:

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1           440.08 (2) (a) 58. Physician licensed under subch. II of ch. 448: November 1  
2 of each odd-numbered year; \$106.

3           **SECTION 100.** 441.001 (2q) of the statutes is created to read:

4           441.001 (2q) PHYSICIAN. "Physician" has the meaning given in s. 448.01 (5).

5           **SECTION 101.** 441.001 (3) (a) of the statutes is amended to read:

6           441.001 (3) (a) "Practical nursing" means the performance for compensation  
7 of any simple acts in the care of convalescent, subacutely or chronically ill, injured  
8 or infirm persons, or of any act or procedure in the care of the more acutely ill, injured  
9 or infirm under the specific direction of a nurse, physician, chiropractor licensed  
10 under ch. 446, podiatrist licensed under ch. 448, dentist licensed under ch. 447 or  
11 optometrist licensed under ch. 449, or under an order of a person who is licensed to  
12 practice medicine, podiatry, dentistry or optometry in another state if that person  
13 prepared the order after examining the patient in that other state and directs that  
14 the order be carried out in this state.

15          **SECTION 102.** 441.001 (4) (b) of the statutes is amended to read:

16          441.001 (4) (b) The execution of procedures and techniques in the treatment  
17 of the sick under the general or special supervision or direction of a physician,  
18 chiropractor licensed under ch. 446, podiatrist licensed under ch. 448, dentist  
19 licensed under ch. 447 or optometrist licensed under ch. 449, or under an order of a  
20 person who is licensed to practice medicine, podiatry, dentistry or optometry in  
21 another state if the person making the order prepared the order after examining the  
22 patient in that other state and directs that the order be carried out in this state.

23          **SECTION 103.** 444.01 of the statutes is created to read:

24          **444.01 Definition.** In this chapter, "physician" has the meaning given in s.  
25 448.01 (5).

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1           **SECTION 104.** 445.14 of the statutes is amended to read:

2           **445.14 Funeral directors; who to employ.** No public officer, employee or  
3           officer of any public institution, physician ~~or surgeon~~, as defined in s. 448.01 (5), shall  
4           send, or cause to be sent, to any funeral director, the corpse of any deceased person,  
5           without having first made due inquiry as to the desires of the next of kin, or any  
6           persons who may be chargeable with the funeral expenses of such deceased person,  
7           and if any such kin or person is found, his or her authority or direction shall be  
8           received as to the disposal of such corpse.

9           **SECTION 105.** 446.01 (1d) of the statutes is created to read:

10          **446.01 (1d)** “Generally accepted standards” means a level of diagnosis, care,  
11          skill, and treatment that is recognized by a reasonably prudent chiropractor as being  
12          appropriate under similar conditions and circumstances.

13          **SECTION 106.** 446.01 (1k) of the statutes is created to read:

14          **446.01 (1k)** “Patient” means an individual who receives treatment or services  
15          from a chiropractor or who has received treatment or services under the supervision,  
16          direction, or delegation of a chiropractor.

17          **SECTION 107.** 446.01 (1L) of the statutes is created to read:

18          **446.01 (1L)** “Pattern of conduct” means more than one occurrence.

19          **SECTION 108.** 446.01 (1m) of the statutes is created to read:

20          **446.01 (1m)** “Peer review” means an evaluation based on generally accepted  
21          standards, by a peer review panel appointed under s. 446.035 (1), of the  
22          appropriateness, quality, and utilization of chiropractic health care provided to a  
23          patient or the conduct of a chiropractor alleged to have violated s. 446.04 (11).

24          **SECTION 109.** 446.01 (1q) of the statutes is created to read:

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1           446.01 (1q) “Physician assistant” means a physician assistant licensed under  
2       subch. II of ch. 448.

3           **SECTION 110.** 446.01 (2) (b) of the statutes is amended to read:

4           446.01 (2) (b) To employ or apply chiropractic adjustments, and the principles  
5       or techniques of chiropractic science, that are taught at a chiropractic college or  
6       university approved by the Council on Chiropractic Education or any successor  
7       organization, in the diagnosis, treatment or prevention of any of the conditions  
8       described in s. 448.01 (10).

9           **SECTION 111.** 446.01 (3) of the statutes is created to read:

10          446.01 (3) “Utilization” means the treatment or services provided to a patient,  
11       including the frequency and duration of the treatment or services.

12          **SECTION 112.** 446.02 (1) (b) of the statutes is amended to read:

13          446.02 (1) (b) Meets the requirements of continuing education for license  
14       renewal ~~as the examining board may require~~ under s. 446.025. During the time  
15       between initial licensure and commencement of a full 2-year licensure period new  
16       licensees shall not be required to meet continuing education requirements. Any  
17       person who has not engaged in the practice of chiropractic for 2 years or more, while  
18       holding a valid license under this chapter, and desiring to engage in such practice,  
19       shall be required by the examining board to complete a continuing education course  
20       at a school of chiropractic approved by the examining board or pass a practical  
21       examination administered by the examining board or both.

22          **SECTION 113.** 446.02 (2) (b) of the statutes is amended to read:

23          446.02 (2) (b) The examining board shall promulgate rules establishing  
24       educational requirements for obtaining a license under par. (a). The rules shall  
25       require that an application for the license that is received by the department after



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1 June 30, 1998, be accompanied by satisfactory evidence that the applicant has a  
2 bachelor's degree from a college or university accredited by an accrediting body listed  
3 as nationally recognized by the secretary of the federal department of education, and  
4 has graduated from a college or university of chiropractic approved by the examining  
5 board.

6 **SECTION 114.** 446.02 (4) of the statutes is amended to read:

7 446.02 (4) The renewal date and renewal fee for all licenses granted by the  
8 examining board are specified under s. 440.08 (2) (a). In an application for renewal,  
9 the applicant shall identify each employee, other than a nurse licensed under ch. 441,  
10 physician assistant, physical therapist licensed under subch. III of ch. 448, or  
11 athletic trainer licensed under subch. VI of ch. 448, to whom clinical work is  
12 delegated. If the examining board has promulgated rules requiring such an  
13 employee to complete a training program or course of instruction to perform the  
14 delegated work, the applicant shall also provide the name, date, and sponsoring  
15 organization for the training program or course of instruction that the employee  
16 completed. Except as provided in sub. (1) (b), the examining board may not renew  
17 a license unless the applicant for renewal identifies on a form provided by the  
18 department the continuing education courses approved under s. 446.025 (2) that the  
19 applicant has completed to satisfy the minimum number of hours required under s.  
20 446.025 (1).

21 **SECTION 115.** 446.02 (6m) of the statutes is created to read:

22 446.02 (6m) (a) Except as provided in par. (b), a chiropractor who is granted  
23 a license under this chapter on or before January 1, 2003, may provide counsel,  
24 guidance, direction, advice, or recommendations to a patient regarding the health  
25 benefits of vitamins, herbs, or nutritional supplements only if the chiropractor has

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1 completed 48 hours in a postgraduate course of study in nutrition that is approved  
2 by the examining board.

3 (b) Paragraph (a) does not apply to a chiropractor licensed under this chapter  
4 who is certified as a dietitian under subch. V of ch. 448.

5 **SECTION 116.** 446.02 (7) (b) of the statutes is renumbered 446.02 (7) (b) 1. and  
6 amended to read:

7 446.02 (7) (b) 1. ~~A~~ Except as provided in subd. 2., a chiropractor may not  
8 delegate to a person who is not licensed under this chapter the making of a diagnosis,  
9 the performance of a chiropractic adjustment, the analysis of a diagnostic test or  
10 clinical information or any practice or service that the examining board, by rule,  
11 prohibits a chiropractor from delegating to a person who is not licensed under this  
12 chapter.

13 **SECTION 117.** 446.02 (7) (b) 2. of the statutes is created to read:

14 446.02 (7) (b) 2. A chiropractor may delegate to a physician assistant the  
15 making of a diagnosis, the analysis of a diagnostic test or clinical information, or any  
16 practice or service specified by the examining board by rule, except that a  
17 chiropractor may not delegate to a physician assistant the performance of a  
18 chiropractic adjustment and except that a chiropractor may not delegate to a  
19 physician assistant any practice or service that exceeds the scope of practice of the  
20 chiropractor or that exceeds the education, training, or experience of the physician  
21 assistant.

22 **SECTION 118.** 446.02 (7s) of the statutes is created to read:

23 446.02 (7s) (a) A chiropractor shall evaluate each patient to determine whether  
24 the patient has a condition that is treatable by chiropractic means. An evaluation  
25 shall be based on an examination that is appropriate to the patient. In conducting

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1 an evaluation, a chiropractor shall utilize chiropractic science, as defined by rule by  
2 the examining board, and the principles of education and training of the chiropractic  
3 profession. A chiropractor shall discontinue treatment by chiropractic means if, at  
4 any time, the chiropractor determines, or reasonably should have determined, that  
5 the patient's condition will not respond to further treatment by chiropractic means,  
6 except that a chiropractor may provide supportive care to a patient being treated by  
7 another health care professional.

8 (b) If a chiropractor determines, or reasonably should have determined, at any  
9 time, that a patient has a condition that is not treatable by chiropractic means, or  
10 will not respond to further treatment by chiropractic means, the chiropractor shall  
11 inform the patient and refer the patient to a physician licensed under subch. II of ch.  
12 448. In making a referral under this paragraph, a chiropractor shall do one of the  
13 following:

14 1. Make a written referral to the physician that describes the chiropractor's  
15 findings, provide a copy of the written referral to the patient, and maintain a copy  
16 of the written referral in the patient record under sub. (7m) (a).

17 2. Make an oral referral to the physician or the physician's staff that describes  
18 the chiropractor's findings, notify the patient about the referral, make a written  
19 record of the referral, including the name of the physician or staff member and date  
20 of the referral, and maintain the written record in the patient record under sub. (7m)  
21 (a).

22 **SECTION 119.** 446.02 (9) (a) of the statutes is amended to read:

23 446.02 (9) (a) A student or graduate of a college or university of chiropractic  
24 who practices chiropractic, in a program for the clinical training of students and  
25 graduates that is reviewed and approved by the examining board, under the

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1 supervision of a chiropractor who is approved by the examining board to supervise  
2 the clinical training of the student or graduate and who is licensed under this chapter  
3 and is responsible for the student's or graduate's practice in an infirmary, clinic,  
4 hospital or private chiropractic office that is connected or associated for training  
5 purposes with a college or university of chiropractic approved by the examining  
6 board.

7 **SECTION 120.** 446.025 of the statutes is created to read:

8 **446.025 Continuing education.** (1) The examining board shall specify the  
9 minimum number of hours of continuing education courses that, except as provided  
10 in s. 446.02 (1) (b), an applicant for renewal of a license under this chapter is required  
11 to complete during a 2-year licensure period. Only courses approved by the  
12 examining board under sub. (2) may be used to satisfy the hours required. The  
13 examining board shall periodically publish updated lists of the courses that are  
14 approved under sub. (2).

15 (2) (a) The examining board may not approve a continuing education course  
16 unless the organization that sponsors the course satisfies all of the following:

17 1. The organization is the Wisconsin, American, or International Chiropractic  
18 Association or its successor, a college or university of chiropractic approved by the  
19 examining board, or a college or university of medicine or osteopathy accredited by  
20 an accrediting body listed as nationally recognized by the secretary of the federal  
21 department of education.

22 2. The organization selects the instructor for the course. If the instructor is a  
23 member of the undergraduate or postgraduate faculty of a college or university of  
24 chiropractic, the organization shall provide a written statement to the examining  
25 board verifying that the instructor has been appointed by the college or university

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1 in accordance with the accreditation standards of the Council on Chiropractic  
2 Education or its successor.

3 3. The organization establishes the objectives of the course, prepares course  
4 materials, evaluates the subject matter prepared by the instructor, conducts a  
5 post-course evaluation, maintains course transcripts, and performs financial  
6 administration necessary for the course.

7 4. The organization proctors course attendance through the instructor or an  
8 officer, director, or employee of the organization.

9 5. The organization provides attendance vouchers to course attendees.

10 6. The organization supplies a list of course attendees to the examining board  
11 in a manner prescribed by the examining board.

12 (b) Notwithstanding par. (a), the examining board may approve a continuing  
13 education course sponsored by an organization that does not satisfy a requirement  
14 under par. (a) 2. to 5. if the organization delegates satisfaction of the requirement to  
15 another organization and the other organization satisfies the requirement.

16 (3) If an organization that sponsors a course approved under sub. (2) fails to  
17 satisfy any requirement under sub. (2) (a) 2. to 5., the examining board shall, for a  
18 period of 2 years, withdraw or withhold approval of all continuing education courses  
19 sponsored by the organization. If an organization to whom satisfaction of any  
20 requirement under sub. (2) (a) 2. to 5. is delegated under sub. (2) (b) fails to satisfy  
21 the requirement, the examining board shall, for a period of 2 years, withdraw or  
22 withhold approval of all continuing education courses sponsored by the organization  
23 that made the delegation.

24 (4) During each 2-year licensure period, the department shall audit a  
25 percentage, as determined by the department, of the applications for renewal of a

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license under this chapter to verify that an applicant has completed the continuing education courses identified by the applicant under s. 446.02 (4).

**SECTION 121.** 446.03 (intro.) of the statutes is amended to read:

**446.03 Reprimand; license revocation, limitation or suspension.**  
(intro.) The Subject to ss. 446.04 (11) (d) and 446.05 (3), the examining board, by order, may reprimand a licensee or registrant and may deny, limit, suspend or revoke any license or certificate of registration if the licensee or registrant:

**SECTION 122.** 446.03 (8) of the statutes is created to read:

446.03 (8) Has violated this chapter or any rule promulgated under this chapter.

**SECTION 123.** 446.035 of the statutes is created to read:

**446.035 Peer review. (1) APPOINTMENT OF PEER REVIEW PANEL.** (a) The examining board shall appoint a peer review panel of no fewer than 6 nor more than 12 members, pursuant to par. (b).

(b) A peer review panel may be selected from a list of nominees that is submitted every 24 months by the Wisconsin Chiropractic Association. If the Wisconsin Chiropractic Association fails to submit a list of nominees, the examining board may solicit nominations for the peer review panel pursuant to a process developed by the department.

(c) A nominee under par. (b) shall meet all of the following requirements:

1. Possess a valid license to practice chiropractic in this state.
2. Have no less than 10 years in practice for a minimum of 20 hours per week within the preceding 2 years of his or her nomination for the peer review panel or, if the nominee is not in active practice at the time of his or her nomination due to a

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1 disability, have at least 5 years of practice for a minimum of 20 hours per week prior  
2 to the onset of his or her disability.

3 3. Be diploma eligible in a specialty that requires at least 300 hours of  
4 postgraduate credit hours approved by the American Chiropractic Association or the  
5 International Chiropractors Association.

6 4. Not have been subject to disciplinary action under this chapter or by any  
7 regulatory or government agency.

8 5. Have completed an annual utilization review course approved by the  
9 examining board.

10 6. The examining board may summarily remove a chiropractor from the peer  
11 review panel if the board finds that the reviewer is unqualified or if it finds that the  
12 reviewer's methods or practices are unprofessional.

13 (2) PROCEDURE. (a) A patient, a chiropractor, an insurer, or the examining  
14 board may request a peer review, if the cost of the care in dispute for a course of  
15 treatment exceeds \$500, by submitting a written request to the department and any  
16 fee required under par. (b). Within 5 business days of submitting the request, the  
17 patient, chiropractor, insurer, or examining board shall submit the following  
18 documents to the department:

19 1. A written statement of the matter he or she wishes to be reviewed.

20 2. Clinical documentation relating to the course of treatment or the conduct he  
21 or she wishes to be reviewed.

22 3. Any other information the patient, chiropractor, insurer, or examining board  
23 wishes to include to support his or her request for review.

24 (b) The department shall charge a patient, chiropractor, or insurer that request  
25 a peer review a fee of \$250. The department shall adjust the fee each year to reflect

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1 adjustments to the U.S. consumer price index for all consumers, U.S. city average,  
2 as determined by the U.S. department of labor.

3 (c) Upon receipt of the documents and fee specified under par. (a), the  
4 department shall notify each patient, chiropractor, or insurer named in the request  
5 for review. Within 10 business days of receiving notification that a review has been  
6 requested, the patient, chiropractor, or insurer shall submit the following to the  
7 department:

8 1. A written statement of response to the matter that is being reviewed.

9 2. Clinical documentation relating to the course of treatment or conduct that  
10 is being reviewed.

11 3. Any other information the patient, chiropractor, or insurer wishes to include  
12 to support his or her response.

13 (d) No patient, chiropractor, or insurer may appear before the peer review panel  
14 or a peer reviewer.

15 (e) The department shall remove identifying information regarding a  
16 chiropractor named in the request for review and, within 5 business days of receipt,  
17 shall forward all of the documents received under pars. (a) and (c) and payment of  
18 \$235 to a peer reviewer chosen at random from the peer review panel. The  
19 department shall adjust the fee each year to reflect adjustments to the U.S. consumer  
20 price index for all consumers, U.S. city average, as determined by the U.S.  
21 department of labor. A peer reviewer chosen under this paragraph or par. (h) may  
22 not have a material professional, familial, or financial interest during the 12 months  
23 preceding his or her performance as a peer reviewer relating to a patient,  
24 chiropractor, insurer, or any agent or affiliate of a patient, chiropractor, or insurer  
25 named or involved in the peer review request.



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1           (f) Within 30 business days of receiving the documents specified in par. (e), the  
2           peer reviewer shall make a determination of the quality, appropriateness, or  
3           utilization of the chiropractic services rendered to the patient. The peer reviewer  
4           shall determine that the chiropractor acted unprofessionally if he or she finds that,  
5           applying generally accepted standards, 50% or more of the chiropractic services  
6           identified in the request for peer review were inappropriate, unnecessary, or of  
7           substandard quality. The peer reviewer shall sign, with his or her name and address,  
8           and remit his or her findings to the department and the department shall issue a copy  
9           of the findings to each patient, chiropractor, or insurer named in the request and to  
10          the examining board.

11          (g) Within 30 days after the date of receipt of the peer reviewer's findings, a  
12          patient, chiropractor, insurer, or the examining board may request an appeal. The  
13          person requesting the appeal shall submit a written request to the department and  
14          pay a fee of \$750.

15          (h) Upon receipt of a request for appeal and the fee specified in par. (g), the  
16          department shall forward all of the documents received under pars. (a), (c), and (f)  
17          and a payment of \$235 each to 3 additional peer reviewers chosen at random from  
18          the peer review panel. The department shall adjust the fee each year to reflect  
19          adjustments to the U.S. consumer price index for all consumers, U.S. city average,  
20          as determined by the U.S. department of labor. The reviewers shall conduct a joint  
21          review of the submitted materials. Each peer reviewer shall determine that the  
22          chiropractor acted unprofessionally if he or she finds that, applying generally  
23          accepted standards, 50% or more of the chiropractic services identified in the request  
24          for peer review were inappropriate, unnecessary, or of substandard quality. Each  
25          peer reviewer shall sign, with his or her name and address, and remit his or her

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1 findings to the department. The department shall forward a copy of the joint review  
2 to each patient, chiropractor, or insurer named in the request for peer review. The  
3 department shall adopt the determination reached by a majority of the peer  
4 reviewers appointed under this paragraph of the quality, appropriateness, or  
5 utilization of the chiropractic services rendered to the patient or the conduct of the  
6 chiropractor.

7 (3) CIVIL LIABILITY. A member of a peer review panel is immune from civil  
8 liability for a finding, evaluation, recommendation, or other action he or she makes  
9 or takes while performing a peer review under this section. This paragraph does not  
10 apply if the member of the peer review panel acts in fraud, conspiracy, or malice.

11 (4) INSURANCE COVERAGE. No finding, evaluation, or recommendation reached  
12 by a peer reviewer may be used to determine whether insurance coverage or  
13 reimbursement is appropriate.

14 **SECTION 124.** 446.04 (6), (7), (8), (9), (10) and (11) of the statutes are created  
15 to read:

16 446.04 (6) A determination under s. 446.035 that 50% or more of the  
17 chiropractic services identified in a request for peer review were inappropriate,  
18 unnecessary, or of substandard quality.

19 (7) Billing for a service that was not performed. This includes:

20 (a) Billing for a service that was performed by a staff person without the  
21 training required by the laws of this state.

22 (b) A pattern of conduct in which a chiropractor bills a Current Procedural  
23 Terminology Code in a manner inconsistent with the published standards of the  
24 Current Procedural Terminology Code, the Current Procedural Terminology

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1 Assistant, the Wisconsin Chiropractic Association, the American Chiropractic  
2 Association, or the International Chiropractic Association.

3 (c) A pattern of conduct in which a chiropractor bills for a service using a higher  
4 level Current Procedural Terminology Code than the service that was actually  
5 provided to the patient with the intent of obtaining unearned reimbursement.

6 (8) Failure to collect a deductible or co-payment required by a patient's insurer.  
7 This subsection does not apply if the patient has financial hardship and the  
8 chiropractor documents the financial hardship.

9 (9) Falsifying a claim.

10 (10) A pattern of conduct that involves billing for a unit of service that was not  
11 actually performed with the intent of obtaining unearned reimbursement.

12 (11) Sexual misconduct. (a) Under this subsection, a chiropractor engages in  
13 sexual misconduct if he or she engages in sexual contact, exposure, or gratification,  
14 sexually offensive communication, dating a patient under the chiropractor's  
15 professional care or treatment, or other sexual behavior with or in the presence of a  
16 patient under the chiropractor's professional care or treatment and a reasonably  
17 prudent chiropractor under similar conditions and circumstances would find the  
18 conduct unprofessional.

19 (b) Under this subsection, "contact violation" means any violation of par. (a)  
20 that involves physical contact with a patient under the chiropractor's professional  
21 care or treatment.

22 (c) Under this subsection, "noncontact violation" means any violation of par. (a)  
23 that does not involve physical contact with a patient under the chiropractor's  
24 professional care or treatment.

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(d) 1. The examining board shall require a chiropractor who commits a first noncontact violation under this subsection to attend training approved by the department regarding sexual misconduct and shall suspend his or her chiropractic license for not less than 90 days.

2. The examining board shall suspend the chiropractic license of a chiropractor who commits a 2nd noncontact violation or a first contact violation under this subsection for one year.

3. The examining board shall revoke the chiropractic license of a chiropractor who commits a 3rd noncontact or a 2nd contact violation under this subsection.

**SECTION 125.** 446.05 (1) of the statutes is amended to read:

**446.05 Procedure for hearings.** (1) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations and conduct hearings in regard to the conduct of any licensed chiropractor who, it has reason to believe, violated s. 446.02 ~~or 446.03 (1), (6), (7), (7m), or (8) or committed any offense listed in s. 446.03.~~ The person complained against may proceed to review any action of the examining board under ch. 227.

**SECTION 126.** 446.05 (2) of the statutes is amended to read:

446.05 (2) ~~Upon~~ Except as provided in sub. (3), upon application and satisfactory proof that the cause of such revocation or suspension no longer exists, the examining board may reinstate any license or registration suspended or revoked by it. This subsection does not apply to a license or registration that is suspended under s. 440.13 (2) (c) or that is revoked under s. 440.12.

**SECTION 127.** 446.05 (3) of the statutes is created to read:

446.05 (3) The examining board shall suspend the license of a chiropractor who commits a third violation of s. 446.04 (1) to (11) for not less than 6 months.

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1           **SECTION 128.** 447.03 (3) (h) of the statutes is amended to read:

2           447.03 (3) (h) A physician ~~or surgeon licensed in this state, as defined in s.~~  
3           448.01 (5), who extracts teeth, or operates upon the palate or maxillary bones and  
4           investing tissues, or who administers anesthetics, either general or local.

5           **SECTION 129.** 449.01 (2) of the statutes is amended to read:

6           449.01 (2) DISPENSING OPTICIANS. A dispensing optician is one who practices  
7           optical dispensing. The practice of optical dispensing comprises the taking of  
8           necessary facial measurements and the processing, fitting and adjusting of  
9           mountings, frames, lenses and kindred products in the filling of prescriptions of ~~duly~~  
10          ~~licensed~~ physicians or optometrists for ophthalmic lenses. Duplications,  
11          replacements or reproductions not requiring optometric service may be done without  
12          prescription. Nothing herein contained shall change the responsibility of physician  
13          to patient, or optometrist to patient.

14          **SECTION 130.** 449.01 (5) of the statutes is created to read:

15          449.01 (5) PHYSICIAN. In this chapter, “physician” has the meaning given in s.  
16          448.01 (5).

17          **SECTION 131.** 449.02 (2) of the statutes is amended to read:

18          449.02 (2) This section shall not apply to physicians ~~and surgeons duly licensed~~  
19          ~~as such in Wisconsin~~ nor shall this section apply to the sale of spectacles containing  
20          simple lenses of a plus power only at an established place of business incidental to  
21          other business conducted therein, without advertising other than price marking on  
22          the spectacles, if no attempt is made to test the eyes. The term “simple lens” shall  
23          not include bifocals.

24          **SECTION 132.** 450.01 (15m) of the statutes is created to read:

25          450.01 (15m) “Physician” has the meaning given in s. 448.01 (5).

**BILL**

1           **SECTION 133.** 450.01 (22) of the statutes is amended to read:

2           450.01 (22) “Vaccination protocol” means a written protocol agreed to by a  
3 physician, ~~as defined in s. 448.01 (5),~~ and a pharmacist that establishes procedures  
4 and record-keeping and reporting requirements for the administration of a vaccine  
5 by a pharmacist for a period specified in the protocol that may not exceed 2 years.

6           **SECTION 134.** 454.01 (14m) of the statutes is created to read:

7           454.01 (14m) “Physician” has the meaning given in s. 448.01 (5).

8           **SECTION 135.** 454.02 (1) of the statutes is amended to read:

9           454.02 (1) Licenses to practice barbering or cosmetology do not confer the right  
10 to diagnose, prescribe for or treat diseases or conditions except as indicated in the  
11 definition of barbering or cosmetology in s. 454.01 (5) or under the direction of a  
12 ~~licensed and~~ practicing physician.

13           **SECTION 136.** 459.035 of the statutes is amended to read:

14           **459.035 Medical exam before being fitted.** A hearing aid shall not be fitted  
15 for or sold to a child 16 years of age or younger unless within 90 days prior to the  
16 fitting the person to be fitted has been examined by a physician, as defined in s.  
17 448.01 (5), to determine whether or not he or she has any physical deficiencies that  
18 would prohibit the effective use of a hearing aid.

19           **SECTION 137.** 560.33 (1) (e) of the statutes is amended to read:

20           560.33 (1) (e) The business is not predominantly engaged in professional  
21 services provided by accountants, lawyers, or physicians, as defined in s. 448.01 (5).

22           **SECTION 138.** 600.03 (34m) of the statutes is created to read:

23           600.03 (34m) “Physician” has the meaning given in s. 448.01 (5).

24           **SECTION 139.** 609.22 (4m) (a) of the statutes is amended to read:

**BILL**

1           609.22 (4m) (a) A defined network plan that provides coverage of obstetric or  
2   gynecologic services may not require a female enrollee of the defined network plan  
3   to obtain a referral for covered obstetric or gynecologic benefits provided by a  
4   participating provider who is a physician ~~licensed under ch. 448~~ and who specializes  
5   in obstetrics and gynecology, regardless of whether the participating provider is the  
6   enrollee's primary provider. Notwithstanding sub. (4), the defined network plan may  
7   not require the enrollee to obtain a standing referral under the procedure established  
8   under sub. (4) (a) for covered obstetric or gynecologic benefits.

9           **SECTION 140.** 632.76 (2) (b) of the statutes is amended to read:

10          632.76 (2) (b) Notwithstanding par. (a), no claim for loss incurred or disability  
11   commencing after 6 months from the date of issue of a medicare supplement policy,  
12   medicare replacement policy or long-term care insurance policy may be reduced or  
13   denied on the ground that a disease or physical condition existed prior to the effective  
14   date of coverage. A medicare supplement policy, medicare replacement policy or  
15   long-term care insurance policy may not define a preexisting condition more  
16   restrictively than a condition for which medical advice was given or treatment was  
17   recommended by or received from a physician or chiropractor within 6 months before  
18   the effective date of coverage. Notwithstanding par. (a), if on the basis of information  
19   contained in an application for insurance a medicare supplement policy, medicare  
20   replacement policy or long-term care insurance policy excludes from coverage a  
21   condition by name or specific description, the exclusion must terminate no later than  
22   6 months after the date of issue of the medicare supplement policy, medicare  
23   replacement policy or long-term care insurance policy. The commissioner may by  
24   rule exempt from this paragraph certain classes of medicare supplement policies,  
25   medicare replacement policies and long-term care insurance policies, if the

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1 commissioner finds the exemption is not adverse to the interests of policyholders and  
2 certificate holders.

3 **SECTION 141.** 647.01 (6) of the statutes is amended to read:

4 647.01 (6) "Medical services" means those services pertaining to medical or  
5 dental care that are performed on behalf of patients by or at the direction of a  
6 physician ~~licensed under ch. 448~~ or a dentist licensed under ch. 447.

7 **SECTION 142.** 655.001 (10m) of the statutes is repealed.

8 **SECTION 143.** 700.16 (4) (d) of the statutes is amended to read:

9 700.16 (4) (d) Transfers, outright or in trust, to the state society of physicians  
10 and surgeons, as defined in s. 448.01 (5), incorporated under the law of this state,  
11 when the transfer is for the advancement of medical science;

12 **SECTION 144.** 765.03 (1) of the statutes is amended to read:

13 765.03 (1) No marriage shall be contracted while either of the parties has a  
14 husband or wife living, nor between persons who are nearer of kin than 2nd cousins  
15 except that marriage may be contracted between first cousins where the female has  
16 attained the age of 55 years or where either party, at the time of application for a  
17 marriage license, submits an affidavit signed by a physician, as defined in s. 448.01  
18 (5), stating that either party is permanently sterile. Relationship under this section  
19 shall be computed by the rule of the civil law, whether the parties to the marriage are  
20 of the half or of the whole blood. A marriage may not be contracted if either party  
21 has such want of understanding as renders him or her incapable of assenting to  
22 marriage.

23 **SECTION 145.** 767.001 (5m) of the statutes is created to read:

24 767.001 (5m) "Physician" has the meaning given in s. 448.01 (5).

25 **SECTION 146.** 804.10 (1) of the statutes is renumbered 804.10 (1r).



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1       **SECTION 147.** 804.10 (1g) of the statutes is created to read:

2       804.10 (1g) In this section, “physician” has the meaning given in s. 448.01 (5).

3       **SECTION 148.** 804.10 (3) (a) of the statutes is amended to read:

4       804.10 (3) (a) No evidence obtained by an adverse party by a court-ordered  
5       examination under sub. (1) (1r) or inspection under sub. (2) shall be admitted upon  
6       the trial by reference or otherwise unless true copies of all reports prepared pursuant  
7       to such examination or inspection and received by such adverse party have been  
8       delivered to the other party or attorney not later than 10 days after the reports are  
9       received by the adverse party. The party claiming damages shall deliver to the  
10      adverse party, in return for copies of reports based on court-ordered examination or  
11      inspection, a true copy of all reports of each person who has examined or treated the  
12      claimant with respect to the injuries for which damages are claimed.

13      **SECTION 149.** 880.33 (1) of the statutes is amended to read:

14      880.33 (1) Whenever it is proposed to appoint a guardian on the ground of  
15      incompetency, a licensed physician, as defined in s. 448.01 (5), or licensed  
16      psychologist, or both, shall furnish a written statement concerning the mental  
17      condition of the proposed ward, based upon examination. The privilege under s.  
18      905.04 shall not apply to this statement. A copy of the statement shall be provided  
19      to the proposed ward, guardian ad litem and attorney. Prior to the examination,  
20      under this subsection, of a person alleged to be not competent to refuse psychotropic  
21      medication under s. 880.07 (1m), the person shall be informed that his or her  
22      statements may be used as a basis for a finding of incompetency and an order for  
23      protective services, including psychotropic medication. The person shall also be  
24      informed that he or she has a right to remain silent and that the examiner is required  
25      to report to the court even if the person remains silent. The issuance of such a

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1 warning to the person prior to each examination establishes a presumption that the  
2 person understands that he or she need not speak to the examiner.

3 **SECTION 150.** 880.33 (4m) (b) 1. of the statutes is amended to read:

4 880.33 (4m) (b) 1. Order the appropriate county department under s. 46.23,  
5 51.42 or 51.437 to develop or furnish, to provide to the ward, and to submit to the  
6 court, a treatment plan specifying the protective services, including psychotropic  
7 medication as ordered by the treating physician, as defined in s. 448.01 (5), that the  
8 proposed ward should receive.

9 **SECTION 151.** 891.09 (2) of the statutes is amended to read:

10 891.09 (2) CHURCH AND DOCTOR'S RECORDS. Any church, parish or baptismal  
11 record, and any record of a physician, as defined in s. 448.01 (5), or a person  
12 authorized to solemnize marriages, in which record are preserved the facts relating  
13 to any birth, stillbirth, fetal death, marriage or death, including the names of the  
14 persons, dates, places and other material facts, may be admitted as prima facie  
15 evidence of any fact aforesaid. But such record must be produced by its proper  
16 custodian and be supported by the custodian's oath that it is such a record as it  
17 purports to be and is genuine to the best of the custodian's knowledge and belief.

18 **SECTION 152.** 891.40 (1) of the statutes is amended to read:

19 891.40 (1) If, under the supervision of a licensed physician, as defined in s.  
20 448.01 (5), and with the consent of her husband, a wife is inseminated artificially  
21 with semen donated by a man not her husband, the husband of the mother at the time  
22 of the conception of the child shall be the natural father of a child conceived. The  
23 husband's consent must be in writing and signed by him and his wife. The physician  
24 shall certify their signatures and the date of the insemination, and shall file the  
25 husband's consent with the department of health and family services, where it shall

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1 be kept confidential and in a sealed file except as provided in s. 46.03 (7) (bm).  
2 However, the physician's failure to file the consent form does not affect the legal  
3 status of father and child. All papers and records pertaining to the insemination,  
4 whether part of the permanent record of a court or of a file held by the supervising  
5 physician or elsewhere, may be inspected only upon an order of the court for good  
6 cause shown.

7 **SECTION 153.** 891.40 (2) of the statutes is amended to read:

8 891.40 (2) The donor of semen provided to a licensed physician, as defined in  
9 s. 448.01 (5), for use in artificial insemination of a woman other than the donor's wife  
10 is not the natural father of a child conceived, bears no liability for the support of the  
11 child and has no parental rights with regard to the child.

12 **SECTION 154.** 895.48 (1) of the statutes is amended to read:

13 895.48 (1) Any person who renders emergency care at the scene of any  
14 emergency or accident in good faith shall be immune from civil liability for his or her  
15 acts or omissions in rendering such emergency care. This immunity does not extend  
16 when employees trained in health care or health care professionals render  
17 emergency care for compensation and within the scope of their usual and customary  
18 employment or practice at a hospital or other institution equipped with hospital  
19 facilities, at the scene of any emergency or accident, enroute to a hospital or other  
20 institution equipped with hospital facilities or at a physician's or chiropractor's  
21 office.

22 **SECTION 155.** 895.48 (4) (b) 2. of the statutes is amended to read:

23 895.48 (4) (b) 2. A health care professional who renders emergency care for  
24 compensation and within the scope of his or her usual and customary employment  
25 or practice at a hospital or other institution equipped with hospital facilities, at the

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1 scene of an emergency or accident, enroute to a hospital or other institution equipped  
2 with hospital facilities or at a physician's or chiropractor's office.

3 **SECTION 156.** 938.02 (14g) of the statutes is created to read:

4 938.02 (14g) "Physician" has the meaning given in s. 448.01 (5).

5 **SECTION 157.** 938.48 (6) of the statutes is amended to read:

6 938.48 (6) Consent to emergency surgery under the direction of a licensed  
7 physician ~~or surgeon~~ for any juvenile under its supervision under s. 938.183, 938.34  
8 (4h), (4m) or (4n) or 938.357 (4) upon notification by a licensed physician ~~or surgeon~~  
9 of the need for such surgery and if reasonable effort, compatible with the nature and  
10 time limitation of the emergency, has been made to secure the consent of the  
11 juvenile's parent or guardian.

12 **SECTION 158.** 939.615 (6) (e) of the statutes is amended to read:

13 939.615 (6) (e) A person filing a petition requesting termination of lifetime  
14 supervision who is entitled to a hearing under par. (d) 2. shall be examined by a  
15 person who is either a physician, as defined in s. 448.01 (5), or a psychologist licensed  
16 under ch. 455 and who is approved by the court. The physician or psychologist who  
17 conducts an examination under this paragraph shall prepare a report of his or her  
18 examination that includes his or her opinion of whether the person petitioning for  
19 termination of lifetime supervision is a danger to public. The physician or  
20 psychologist shall file the report of his or her examination with the court within 60  
21 days after completing the examination, and the court shall provide copies of the  
22 report to the person filing the petition and the district attorney who received a copy  
23 of the person's petition under par. (c). The contents of the report shall be confidential  
24 until the physician or psychologist testifies at a hearing under par. (f). The person

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petitioning for termination of lifetime supervision shall pay the cost of an examination required under this paragraph.

**SECTION 159.** 940.001 of the statutes is created to read:

**940.001 Definition.** In this subchapter, “physician” has the meaning given in s. 448.01 (5).

**SECTION 160.** 941.315 (1) (c) of the statutes is created to read:

941.315 (1) (c) “Physician” has the meaning given in s. 448.01 (5).

**SECTION 161.** 948.01 (3o) of the statutes is created to read:

948.01 (3o) “Physician” has the meaning given in s. 448.01 (5).

**SECTION 162.** 948.70 (1) (intro.) and (b) of the statutes are consolidated, renumbered 948.70 (1) and amended to read:

948.70 (1) In this section: ~~(b) “Tattoo”~~, “tattoo” means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.

**SECTION 163.** 948.70 (1) (a) of the statutes is repealed.

**SECTION 164.** 961.01 (17m) of the statutes is created to read:

961.01 (17m) “Physician” has the meaning given in s. 448.01 (5).

**SECTION 165.** 967.02 (2) of the statutes is amended to read:

967.02 (2) “Department” means the department of corrections, except as provided in s. 975.001 (1).

**SECTION 166.** 968.255 (3) of the statutes is amended to read:

968.255 (3) No person other than a physician, as defined in s. 448.01 (5), physician assistant or registered nurse licensed to practice in this state may conduct a body cavity search.

**SECTION 167.** 971.14 (2) (g) of the statutes is amended to read:

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1        971.14 (2) (g) The defendant may be examined for competency purposes at any  
2 stage of the competency proceedings by physicians, as defined in s. 448.01 (5), or  
3 other experts chosen by the defendant or by the district attorney, who shall be  
4 permitted reasonable access to the defendant for purposes of the examination.

5        **SECTION 168.** 971.14 (5) (am) of the statutes is amended to read:

6        971.14 (5) (am) If the defendant is not subject to a court order determining the  
7 defendant to be not competent to refuse medication or treatment for the defendant's  
8 mental condition and if the treatment facility determines that the defendant should  
9 be subject to such a court order, the treatment facility may file with the court with  
10 notice to the counsel for the defendant, the defendant and the district attorney, a  
11 motion for a hearing, under the standard specified in sub. (3) (dm), on whether the  
12 defendant is not competent to refuse medication or treatment. A report on which the  
13 motion is based shall accompany the motion and notice of motion and shall include  
14 a statement signed by a licensed physician, as defined in s. 448.01 (5), that asserts  
15 that the defendant needs medication or treatment and that the defendant is not  
16 competent to refuse medication or treatment, based on an examination of the  
17 defendant by such a licensed physician. Within 10 days after a motion is filed under  
18 this paragraph, the court shall, under the procedures and standards specified in sub.  
19 (4) (b), determine the defendant's competency to refuse medication or treatment for  
20 the defendant's mental condition. At the request of the defendant, the defendant's  
21 counsel or the district attorney, the hearing may be postponed, but in no case may  
22 the postponed hearing be held more than 20 days after a motion is filed under this  
23 paragraph.

24        **SECTION 169.** 971.17 (3) (c) of the statutes is amended to read:

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1           971.17 (3) (c) If the court order specifies institutional care, the department of  
2 health and family services shall place the person in an institution under s. 51.37 (3)  
3 that the department considers appropriate in light of the rehabilitative services  
4 required by the person and the protection of public safety. If the person is not subject  
5 to a court order determining the person to be not competent to refuse medication or  
6 treatment for the person's mental condition and if the institution in which the person  
7 is placed determines that the person should be subject to such a court order, the  
8 institution may file with the court, with notice to the person and his or her counsel  
9 and the district attorney, a motion for a hearing, under the standard specified in s.  
10 971.16 (3), on whether the person is not competent to refuse medication or treatment.  
11 A report on which the motion is based shall accompany the motion and notice of  
12 motion and shall include a statement signed by a licensed physician, as defined in  
13 s. 448.01 (5), that asserts that the person needs medication or treatment and that the  
14 person is not competent to refuse medication or treatment, based on an examination  
15 of the person by a licensed physician, as defined in s. 448.01 (5). Within 10 days after  
16 a motion is filed under this paragraph, the court shall determine the person's  
17 competency to refuse medication or treatment for the person's mental condition. At  
18 the request of the person, his or her counsel or the district attorney, the hearing may  
19 be postponed, but in no case may the postponed hearing be held more than 20 days  
20 after a motion is filed under this paragraph. If the district attorney, the person and  
21 his or her counsel waive their respective opportunities to present other evidence on  
22 the issue, the court shall determine the person's competency to refuse medication or  
23 treatment on the basis of the report accompanying the motion. In the absence of  
24 these waivers, the court shall hold an evidentiary hearing on the issue. If the state  
25 proves by evidence that is clear and convincing that the person is not competent to

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1 refuse medication or treatment, under the standard specified in s. 971.16 (3), the  
2 court shall order that the person is not competent to refuse medication or treatment  
3 for the person's mental condition and that whoever administers the medication or  
4 treatment to the person shall observe appropriate medical standards.

5 **SECTION 170.** 975.001 of the statutes is renumbered 975.001 (intro.) and  
6 amended to read:

7 **975.001 Definition Definitions.** (intro.) In this chapter, ~~"department"~~:

8 (1) ~~"Department"~~ means the department of health and family services.

9 **SECTION 171.** 975.001 (2) of the statutes is created to read:

10 975.001 (2) "Physician" has the meaning given in s. 448.01 (5).

11 **SECTION 172.** 979.001 of the statutes is created to read:

12 **979.001 Definition.** In this chapter "physician" has the meaning given in s.  
13 448.01 (5).

14 **SECTION 173.** 990.01 (25v) of the statutes is created to read:

15 990.01 (25v) OSTEOPATH. "Osteopath" means a person holding a license or  
16 certificate of registration from the medical examining board.

17 **SECTION 174.** 990.01 (28) of the statutes is amended to read:

18 990.01 (28) ~~PHYSICIAN, SURGEON OR OSTEOPATH.~~ "Physician," ~~"surgeon" or~~  
19 ~~"osteopath" or "licensed physician"~~ means a person holding a license or certificate of  
20 registration from the medical examining board or chiropractic examining board.

21 **SECTION 175.** 990.01 (40m) of the statutes is created to read:

22 990.01 (40m) SURGEON. "Surgeon" means a person holding a license or  
23 certificate of registration from the medical examining board.

24 **SECTION 176. Initial applicability.**



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(1) CONTINUING EDUCATION. If the effective date of this subsection is before January 1, 2004, the treatment of sections 446.02 (1) (b) and (4) and 446.025 of the statutes first applies to chiropractors whose licenses expire on January 1, 2005. If the effective date of this subsection is on or after January 1, 2004, the treatment of sections 446.02 (1) (b) and (4) and 446.025 of the statutes first applies to chiropractors whose licenses expire on January 1, 2007.

(2) VIOLATIONS AND OFFENSES. The treatment of section 446.05 (1) of the statutes and the creation of sections 446.03 (intro.) and (8) and 446.04 (6), (7), (8), (9), (10), and (11) of the statutes first apply to violations that occur, and offenses that are committed, on the effective date of this subsection.

(3) LICENSE SUSPENSION. The treatment of section 446.05 (2) of the statutes and the creation of section 446.05 (3) of the statutes first apply to 3rd violations that occur on the effective date of this subsection.

**SECTION 177. Effective dates.** This act takes effect on the first day of the 2nd month beginning after publication, except as follows:

(1) The treatment of section 446.02 (6m) of the statutes takes effect on the first day of the 7th month beginning after publication.

**(END)**

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2381/4dn  
MDK:.....

Representative Foti:

This version is identical to the previous version, except that a mistake in the analysis is corrected (regarding the percentage of renewal applications that DRL must audit).

Mark D. Kunkel  
Senior Legislative Attorney  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2381/4dn  
MDK:wlj:jf

March 31, 2003

Representative Foti:

This version is identical to the previous version, except that a mistake in the analysis is corrected (regarding the percentage of renewal applications that DRL must audit).

Mark D. Kunkel  
Senior Legislative Attorney  
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**Kunkel, Mark**

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**From:** Sweet, Richard  
**Sent:** Wednesday, April 30, 2003 4:09 PM  
**To:** Kunkel, Mark; Wischnewski, Marne; 'rleonard@aol.com'  
**Subject:** Changes to the chiropractic draft

These are the minor changes that Marne, Russ, Pat and I discussed last week and everyone was okay with:

1. ~~Page~~ 42, line 9--"paragraph" should be changed to "subsection".
2. Page 43, line 18--We discussed adding "Consent is not an issue under this subsection." or similar language to parallel s. 940.22, Stats.
3. Page 44, line 25--"(10)" should replace "(11)" since the sexual misconduct subsection has its own suspension provisions.

In addition, you might want to make the following minor changes:

1. ~~Page~~ 3, line 2--"chiropractors" should replace "chiropractics".
2. Page 39, line 10--"(d)" would replace "6." since the material isn't a requirement that nominees have to meet in order to be on a peer review panel.
3. Page 41, line 14--The \$750 figure should be indexed for inflation, since the other fee figures and amounts paid to peer reviewers are inflation-adjusted.

*Dick Sweet*  
Senior Staff Attorney  
Wisconsin Legislative Council  
(608)266-2982  
richard.sweet@legis.state.wi.us



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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE GREGG UNDERHEIM

FROM: Richard Sweet, Senior Staff Attorney

RE: LRB-2381/4 (Practice of Chiropractic)

DATE: April 30, 2003

This memorandum summarizes the provisions of LRB-2381/4, relating to the definition of the practice of chiropractic; chiropractic evaluations, treatments, and referrals to physicians; unprofessional conduct by chiropractors; delegations by chiropractors to physician assistants and other employees; continuing education for chiropractors; nutritional guidance provided by chiropractors to patients; statutory references to physicians and chiropractic; and granting rule-making authority.

The draft makes a number of changes in ch. 446, Stats., the chapter of the statutes that regulates the practice of chiropractic. In addition, the draft makes a number of other changes to statutes that relate to the definition of "physician" and activities that may be undertaken by physicians. As described below, some of those statutes, as affected by the draft, would allow the activities to be undertaken by physicians who are medical doctors (MDs) or by chiropractors.

### **CHANGES IN THE STATUTES RELATING TO THE PRACTICE OF CHIROPRACTIC**

#### **Scope of Practice**

Current statutes define the term "practice of chiropractic" as follows:

446.01 (2) "Practice of chiropractic" means:

- (a) To examine into the fact, condition, or cause of departure from complete health and proper condition of the human; to treat without the use of drugs as defined in s. 450.01 (10) or surgery; to counsel; to advise for the same for the restoration and preservation of health or to undertake, offer, advertise, announce or hold out in any manner to do any of the aforementioned acts, for compensation, direct or indirect or in expectation thereof; and

(b) To employ or apply chiropractic adjustments and the principles or techniques of chiropractic science in the diagnosis, treatment or prevention of any of the conditions described in s. 448.01 (10).

The draft modifies par. (b) in the definition above to refer to chiropractic adjustments and the principals or techniques of chiropractic science "that are *taught at a chiropractic college or university* approved by the Council on Chiropractic Education or any successor organization" (emphasis added).

In addition, the draft states that a chiropractor who is granted a license under ch. 446, Stats., on or before January 1, 2003, may provide counsel, guidance, direction, advice, or recommendations to a patient regarding the *health benefits of vitamins, herbs, or nutritional supplements* only if the chiropractor has completed 48 hours in a postgraduate course of study in nutrition that is approved by the Chiropractic Examining Board. This requirement does not apply if the chiropractor is also certified as a dietician.

### **Delegation of Duties**

Current law provides that a chiropractor may delegate to a person who is not licensed as a chiropractor the performance of services that are adjunctive to the practice of chiropractic if the services are performed under the direct, on-premises supervision of the chiropractor. However, current law states that a chiropractor may not delegate to a person who is not a licensed chiropractor the making of a diagnosis, the performance of a chiropractic adjustment, the analysis of a diagnostic test or clinical information, or any practice or service that the Chiropractic Examining Board, by rule, prohibits a chiropractor from delegating to such a person.

The draft provides that a chiropractor *may delegate to a physician assistant* the making of a diagnosis, the analysis of a diagnostic test or clinical information, or any practice or service specified by the Chiropractic Examining Board by rule. However, a chiropractor may not delegate to a physician assistant the performance of a chiropractic adjustment. In addition, a chiropractor may not delegate to a physician assistant any practice or service that exceeds the scope of practice of the chiropractor or that exceeds the education, training, or experience of the physician assistant.

The draft also states that in an application for renewal of a chiropractor's license, the applicant must identify each employee (other than a nurse, physician assistant, physical therapist, or athletic trainer) to whom clinical work is delegated. If the Chiropractic Examining Board has promulgated rules requiring such an employee to complete a *training program or course of instruction* to perform the delegated work, the chiropractor seeking renewal of the license must also provide the name, date, and sponsoring organization for the training program or course of instruction that the employee has completed.

### **Evaluations and Referrals**

The draft states that a chiropractor must evaluate each patient to determine whether the patient has a condition that is treatable by chiropractic means and specifies requirements regarding the conduct of the evaluation. A chiropractor is required to discontinue treatment by chiropractic means if, at any time, the chiropractor determines, or reasonably should have determined, that the patient's condition will not respond to further treatment by chiropractic means. If a chiropractor does so, the chiropractor must

inform the patient and *refer the patient to an MD*. However, a chiropractor may still provide supportive care to a patient who is being treated by another health care professional.

### **Continuing Education**

The draft requires the Chiropractic Examining Board to specify the minimum number of hours of continuing education courses that an applicant for renewal of a license must complete during a two-year licensure period. Current rules of the Chiropractic Examining Board establish a requirement of 40 continuing education credit hours in a two-year period. [s. Chir 5.01 (1) (a), Wis. Adm. Code.] Only courses approved by the board may be used to satisfy the hours required. The board is required to periodically publish updated lists of approved courses.

The Chiropractic Examining Board may not approve a continuing education course unless the *organization sponsoring the course* satisfies all of the following requirements: (1) the organization is a chiropractic association or a college or university described in the statute; (2) the organization selects the instructor for the course; (3) the organization establishes the objectives of the course, prepares course materials, evaluates the subject matter, conducts a post-course evaluation, maintains course transcripts, and performs necessary financial administration; (4) the organization proctors course attendance; (5) the organization provides attendance vouchers to attendees; and (6) the organization supplies a list of attendees to the board. The course sponsor may delegate satisfaction of requirements (2) to (5) to another organization.

The draft requires that during each two-year licensure period, the Department of Regulation and Licensing (DRL) must audit a percentage, determined by the department, of the applications for renewal of a chiropractic license to verify that an applicant has completed the continuing education requirements.

### **Peer Review**

The draft defines "peer review" as an evaluation, based on generally accepted standards, by a peer review panel of the appropriateness, quality, and utilization of chiropractic health care or the conduct of a chiropractor alleged to have violated the new statute on sexual misconduct. The draft defines "generally accepted standards" as a level of diagnosis, care, skill, and treatment that is recognized by a reasonably prudent chiropractor as being appropriate under similar conditions and circumstances.

The draft requires the Chiropractic Examining Board to appoint a peer review panel of six to 12 members. The panel may be selected from the list of nominees that is submitted every 24 months by the Wisconsin Chiropractic Association. If the association fails to submit a list of nominees, the board may solicit nominations for the peer review panel. *A nominee to a peer review panel must meet all of the following requirements:* (1) possess a valid license to practice chiropractic in Wisconsin; (2) have no less than 10 years practice for a minimum of 20 hours per week within the preceding two years, or if the nominee is not in active practice at the time due to a disability, have at least five years of practice for a minimum of 20 hours per week prior to the onset of the disability; (3) be diploma eligible in a specialty that requires at least 300 hours of postgraduate credit hours approved by the American Chiropractic Association or the International Chiropractors Association; (4) have not been subject to disciplinary action under ch. 446, Stats., or by any regulatory or government agency; and (5) have completed an annual utilization review course approved by the board. The draft allows the board to summarily

remove a chiropractor from a peer review panel if it finds that the reviewer is unqualified or if it finds that the reviewer's methods or practices are unprofessional.

Under the draft, a patient, a chiropractor, an insurer, or the Chiropractic Examining Board may request a peer review, if the cost of care in dispute for a course of treatment exceeds \$500, by submitting a written request to DRL and paying the required fee. The requester is required to submit certain information to DRL for purposes of the peer review. No patient, chiropractor, or insurer may appear before the peer review panel or a peer reviewer. DRL is required to remove identifying information regarding a chiropractor named in the request and must forward \$235 of the \$250 fee to a peer reviewer chosen at random from the peer review panel.

A peer reviewer is required to determine that a chiropractor acted unprofessionally if the peer reviewer finds that, applying generally accepted standards, 50% or more of the chiropractic services identified in the request for peer review were inappropriate, unnecessary, or of substandard quality. The draft also provides for an appeal from a determination by a peer reviewer. Upon receipt of a request for appeal, DRL is required to forward all documents and \$235 each to three additional peer reviewers chosen at random from the peer review panel. The total appeal fee is \$750.

The draft provides that a member of a peer review panel is immune from civil liability for a finding, evaluation, recommendation, or other action that he or she makes or takes while performing a peer review. Immunity does not apply if the member of the peer review panel acts in fraud, conspiracy, or malice.

In addition, the draft provides that no finding, evaluation, or recommendation reached by a peer reviewer may be used to determine whether insurance coverage or reimbursement is appropriate.

### **Discipline of Chiropractors**

Current law allows the Chiropractic Examining Board to reprimand a licensee or deny, limit, suspend, or revoke a license if the licensee has engaged in certain activities. One of those activities is being guilty of unprofessional conduct, as defined in current statutes.

The draft adds to the list of activities for which the licensee may be disciplined a provision that the licensee has violated ch. 446, Stats., or any rule promulgated under that chapter.

In addition, the draft adds the following to the list of circumstances that constitute *unprofessional conduct*:

1. A determination under a peer review that 50% or more of the chiropractic services identified in a request for peer review were inappropriate, unnecessary, or of substandard quality.
2. Billing for a service that was not performed. This includes billing for a service that was performed by a staff person without the training required by state law. It also includes a pattern of conduct in which a chiropractor bills a current procedural terminology (CPT) code in a manner inconsistent with certain standards for that code. Finally, it also includes a pattern of conduct in which a chiropractor bills for a service using a higher level CPT code than the service that was actually provided to the patient with the intent of obtaining unearned reimbursement.



3. Failure to collect a deductible or copayment required by a patient's insurer, except in cases where the patient has a financial hardship.
4. Falsifying a claim.
5. A pattern of conduct that involves billing for a unit of service that was not actually performed with the intent of obtaining unearned reimbursement.
6. Sexual misconduct.

For purposes of the above provisions, the term "pattern of conduct" is defined as more than one occurrence.

The provision dealing with *sexual misconduct* states that a chiropractor engages in sexual misconduct if he or she engages in sexual contact, exposure, or gratification, sexually offensive communication, dating a patient, or other sexual behavior with or in the presence of a patient and a reasonably prudent chiropractor under similar conditions and circumstances would find the conduct unprofessional. The draft distinguishes between contact violations (i.e., violations that involve physical contact with a patient) and noncontact violations.

The draft provides specific *penalties* for chiropractors who violate the prohibition on *sexual misconduct*. A chiropractor who commits a first noncontact violation must be required to attend training approved by DRL regarding sexual misconduct and the chiropractor's license must be suspended for not less than 90 days. The license of a chiropractor who commits a second noncontact violation or a first contact violation must be suspended for one year. Finally, the license of a chiropractor who commits a third noncontact or a second contact violation must be revoked.

Finally, the draft requires suspension for at least six months of a license of a chiropractor who commits a *third violation* of the statutes dealing with *unprofessional conduct*.

### **OTHER STATUTORY CHANGES**

Under current s. 990.01, Stats., certain terms are defined for purposes of their use throughout the statutes. One of those terms is "physician" in s. 990.01 (28), Stats., which is defined as a person holding a license or certificate of registration from the Medical Examining Board. Therefore, generally throughout the statutes, the term "physician" is limited to MDs.

The draft modifies the definition of "physician" in ch. 990, Stats., to mean an MD or a chiropractor. Therefore, throughout the statutes, wherever the term "physician" is used, the term will mean an MD or a chiropractor, unless the term is specifically qualified to limit it only to MDs. The draft makes the change in numerous statutes to limit their applicability only to MDs (and doctors of osteopathy) by referring to a physician as defined in s. 448.01 (5), Stats., or by stating that "physician" has the meaning given in s. 448.01 (5), Stats.

However, in several other statutes that do not currently include chiropractors, the use of the term "physician" is not specifically limited by the draft to be just MDs and would therefore include MDs and chiropractors. Examples of current statutes that do not include chiropractors, but that would include both MDs and chiropractors under the draft include the following:

1. The ***Volunteer Health Care Provider Program*** treats as state agents, for certain purposes, volunteer health care providers who provide services for nonprofit agencies. The term "volunteer health care provider" is currently limited to physicians, dentists, registered nurses, practical nurses, nurse-midwives, optometrists, physician assistants, and dieticians. Under the draft, the term would also include chiropractors for purposes of the program. [s. 146.89, Stats.]
2. The current statute that allows blood to be drawn from a person arrested for operating a motor vehicle while ***under the influence*** of an intoxicant or other drug allows the ***blood to be drawn*** only by a physician, registered nurse, medical technologist, physician assistant, or a person acting under the direction of a physician. The draft would also allow the blood to be drawn by a chiropractor or a person acting under the direction of a chiropractor. [s. 343.305 (5) (b), Stats.]
3. The current statute that defines the practice of "professional nursing" defines that term, in part, by referencing procedures and techniques in the treatment of the sick under the general or special supervision or direction of a physician, podiatrist, dentist, or optometrist. Similar terminology is used in the definition of "practical nursing." The draft expands the ***types of health care providers who can provide the supervision or direction of a nurse*** to include chiropractors. [s. 441.001 (3) (a) and (4) (b), Stats.]
4. Current law provides that a veteran who has suffered a physical disability as a direct result of military or navel service must not on that account be barred from public employment if a licensed physician making a physical examination of the veteran for the public employer certifies that the ***disability will not materially handicap the veteran*** in the performance of the duties of the position. The draft expands this to allow the certification also to be made by a chiropractor. [s. 45.52, Stats.] [Note that under some current statutes, disability determinations may be made by a chiropractor (e.g., s. 29.171 (4) (a) 5., Stats.), but other disability-related statutes do not include chiropractors.]
5. In the current ***public health chapters*** of the statutes (chs. 250 to 255, Stats.), the term "physician" does not include chiropractors. The definition of that term is repealed in s. 250.01 (6), Stats., but new definitions that are limited to MDs (and osteopaths) are created in chs. 252 to 255, Stats. However, in chs. 250 and 251, Stats., the term "physician" would include MDs and chiropractors. Those chapters include provisions that: (a) require that the state's chief medical officers be physicians; (b) require that a good faith effort be made to appoint a registered nurse and a physician to a local board of health; and (c) require that a local health officer for a town, village, or multiple municipal health department in Racine County be a registered nurse or a physician. [ss. 250.02 (2), 251.03 (1), and 251.06 (1) (a) 2., Stats.]

Feel free to contact me if I can be of further assistance.

RNS:jal:wu;ksm

## Kunkel, Mark

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**From:** Kunkel, Mark  
**Sent:** Friday, May 02, 2003 10:21 AM  
**To:** Sweet, Richard; Wischnewski, Marne; 'RLeonard@aol.com'  
**Subject:** Table of Statutory References

Here is a table that lists the statutes that are referenced in the different items beginning on page 6 of LRB-2381/4.



Statutory  
References.doc

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Mark D. Kunkel  
Senior Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131

**Statutory References to Physicians and Chiropractors in LRB-2381/4**

<b>Item:</b>	<b>Statutes Described:</b>
<b>1</b>	Sections 29.193 (2) (c) 2., 70.47 (8), 91.17 (2), 111.37 (6) (c) 1., 111.70 (7) (a) and (7m) (c) 2., 146.301 (3) (a), 146.82 (3) (a), 234.622 (1) (a), and 343.63 (4).
<b>2</b>	Sections 16.752 (8) (g), 40.63 (9) (a), 45.52, 301.08 (1) (c) 3m. b., 304.073 (4) (b), 304.074 (3) (d), and 939.615 (5) (c) 4.
<b>3</b>	Sections 15.165 (5) (a) 7., <del>60.23 (9)</del> , <del>250.01 (1)</del> , <del>251.03 (1)</del> , and <del>251.06 (1) (a) 2.</del>
<b>4</b>	Sections 50.09 (1) (a) (intro.) and 103.13 (5), 153.50 (3) (b) 6.
<b>5</b>	Sections 23.33 (7) (a) and 350.15 (3) and (5) (b).
<b>6</b>	Sections 23.33 (4p) (b) 4., 30.684 (2) (d), 343.305 (5) (b), and 350.104 (2) (d).
<b>7</b>	Sections 63.32, 106.21 (10) (e), 106.215 (11) (e), and 118.25, 230.16 (1) (am).
<b>8</b>	Section 804.10.
<b>9</b>	<del>Section 50.90 (3).</del>
<b>10</b>	Section 146.89 (1).
<b>11</b>	Section <del>70.11</del> (4m) (c).
<b>12</b>	<del>Sections 49.148 (1m) (b) and 49.19 (11s) (b) 2.</del>
<b>13</b>	Section 115.777 (1) (a).
<b>14</b>	Section 632.76 (2) (b).
<b>15</b>	195.14 (2) (a) and (b)
<b>16</b>	895.48 (1) and (4) (b) 2.